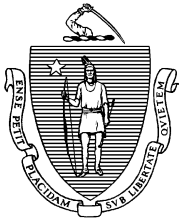


SENATE, No. 2201

[Senate, November 10, 2009 - New Draft of House, No. 4164 reported from the committee on Education.]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND NINE

AN ACT RELATIVE TO EDUCATION REFORM.

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

1 **SECTION 1.** Chapter 69 of the General Laws is hereby amended by striking out section 1J as
2 appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

3 Section 1J.

4 (a) The commissioner of elementary and secondary education may, (1) on the basis of
5 student performance data collected pursuant to section 1I of this chapter, (2) a school or district review

6 performed pursuant to section 55A of chapter 15, or (3) regulations adopted by the board of elementary
7 and secondary education, designate 1 or more schools in a school district other than a Horace Mann
8 charter school as underperforming or chronically underperforming. The board shall adopt regulations
9 establishing standards for the commissioner to make such designations on the basis of clauses (1), (2) or
10 (3). Schools that score in the lowest 20 per cent statewide in the combined composite performance
11 index scores on the English language arts and mathematics Massachusetts comprehensive assessment
12 system exams shall be deemed eligible for designation as underperforming or chronically
13 underperforming. Not more than 5 per cent of the public schools in the commonwealth may be
14 designated as underperforming or chronically underperforming at any one time. If the department is no
15 longer using the combined composite performance index as a measure of school and district
16 performance, the department shall use the subsequently developed measure to determine the lowest 20
17 per cent of schools. Before a school is deemed chronically underperforming by the commissioner, a
18 school must be deemed underperforming and fail to improve.

19 In adopting such regulations, the board shall consider multiple indicators of school quality in
20 making determinations regarding underperformance or chronic underperformance, such as (1) student
21 attendance; (2) promotion rates; (3) graduation rates; or (4) the lack of demonstrated significant
22 improvement for 2 or more consecutive years in core academic subjects, either in the aggregate or
23 among subgroups of students, including designations based special education, low-income, English
24 language proficiency and racial classifications.

25 An underperforming or chronically underperforming school described in the following
26 subsections shall operate in accordance with the provisions of law regulating other public schools, except
27 as such provisions may conflict with the provisions of this section or the provisions of any innovation
28 plans created thereunder. Any student enrolled in a school when it is designated as underperforming or
29 chronically underperforming shall retain the ability to remain enrolled in such school if such student
30 chooses to do so.

(b) Upon the designation of a school as an underperforming school, the superintendent of the district, in consultation with the commissioner, shall create an innovation plan for the school pursuant to the provisions of subsections (b) to (e), inclusive.

Prior to the creation of an innovation plan, the superintendent shall convene a local stakeholder group of not more than 11 individuals for the purpose of soliciting recommendations on the content of such plan to maximize the rapid academic achievement of students at the school. Such group shall consist of not less than the following individuals: (1) the commissioner or a designee; (2) the chair of the school committee or a designee; (3) the president of the local teachers union or a designee; (4) an administrator from the school, who may be the principal, chosen by the superintendent; (5) a teacher from the school chosen by the faculty of the school; (6) a parent from the school chosen by the local parent organization; (7) representatives of applicable state and local social service, health, and child welfare agencies chosen by the superintendent; and (8) as applicable, representatives of state and local workforce development agencies, chosen by the superintendent. If the school or district does not have a parent organization or if such organization does not select a parent, the superintendent shall select the parent from among volunteers from the school. The superintendent shall convene such group within 30 days of the commissioner designating a school as underperforming, and such group shall make its recommendations to the superintendent within 45 days of its initial meeting. Meetings of the local stakeholder group shall be open to the public, and the recommendations submitted to the superintendent pursuant to this subsection shall be publicly available immediately upon their submission.

(c) In creating the innovation plan required in subsection (b) the superintendent shall include, after considering the recommendations of the local stakeholder group, provisions intended to maximize the rapid academic achievement of students at the school and shall, to the extent practicable, base the plan on student outcome data, including, but not limited to: (1) data collected pursuant to section 11 or a school or district review performed pursuant to section 55A of chapter 15; (2) student achievement on the Massachusetts comprehensive assessment system; (3) other measures of student

56 achievement, as appropriate; (4) student promotion and graduation rates; (5) achievement data for
57 different subgroups of students, including low-income students as defined in chapter 70, limited English
58 proficient students, and students receiving special education; and (6) student attendance and dismissal
59 rates.

60 The superintendent shall also include, after considering the recommendations of the local
61 stakeholder group, the following: (1) steps to address social service and health needs of students at the
62 school, and their families, in order to help students arrive and remain at school ready to learn; (2) steps to
63 improve or expand child welfare services and, as appropriate, law enforcement services in the school
64 community, in order to promote a safe and secure learning environment; (3) as applicable, steps to
65 improve workforce development services provided to students at the school, and their families, in order
66 to provide students and families with meaningful employment skills and opportunities; (4) steps to
67 address achievement gaps for limited English proficient, special education and low-income students, as
68 applicable; and (5) a budget for the school, including any additional funds to be provided by the district,
69 commonwealth, federal government or other sources.

70 The secretaries of health and human services, labor and workforce development, public safety
71 and security, and other applicable state and local social service, health, and child welfare officials shall
72 coordinate with the superintendent regarding the implementation of strategies pursuant to clauses (1) to
73 (3), inclusive of the preceding paragraph that are included in a final innovation plan and shall, subject to
74 appropriation, reasonably support such implementation consistent with the requirements of state and
75 federal law applicable to the relevant programs that each such official is responsible for administering.
76 The secretary of education and commissioner shall assist the superintendent in facilitating such
77 coordination.

78 To assess the school across multiple measures of school performance and student success, the
79 innovation plan shall include measurable annual goals including, but not limited to: (1) student

80 attendance; (2) student safety and discipline; (3) student promotion and graduation; (4) student
81 achievement on the Massachusetts comprehensive assessment system; (5) progress in areas of academic
82 underperformance; (6) progress among subgroups of students, including low-income students as defined
83 by chapter 70, limited English proficient students, and students receiving special education; (7) reduction
84 of achievement gaps among different groups of students; (8) student acquisition and mastery of 21st-
85 century skills; (9) development of college readiness, including at the elementary and middle school
86 levels; (10) parent and family engagement; (11) building a culture of academic success among students;
87 and (12) building a culture of student support and success among school faculty and staff.

88 (d) In creating the innovation plan, the superintendent may, after considering the
89 recommendations of the group of stakeholders: (1) expand, alter, or replace the curriculum of the school,
90 including the implementation of research-based early literacy programs and the teaching of advanced
91 placement courses, if the school does not already have such programs or courses; (2) reallocate the uses
92 of the existing budget of the school; (3) provide additional funds to the school from the budget of the
93 district, if the school does not already receive funding from the district not less than the average per pupil
94 funding received for students of the same classification and grade level in the district; (4) provide funds,
95 subject to appropriation and following consultation with applicable local unions, to increase the salary of
96 any administrator or teacher in the school, in order to attract and retain highly qualified administrators or
97 teachers or to reward administrators or teachers who work in underperforming schools that achieve the
98 annual goals set forth in the innovation plan; (5) expand the school day or school year of the school; (6)
99 for an elementary school, add pre-kindergarten and full-day kindergarten classes, if the school does not
100 already have such classes; (7) following consultation with applicable local unions, require the principal
101 and all administrators, teachers, and staff to reapply for their positions in the school, with full discretion
102 vested in the superintendent regarding his consideration of and decisions on any such reapplications; (8)
103 limit, suspend, or change 1 or more school district policies, as such policies relate to the school; (9)
104 include a provision of job-embedded professional development for teachers at the school, emphasizing

105 strategies that involve teacher input and feedback; (10) provide increased opportunities for teacher
106 planning time and collaboration focused on improving student instruction; (11) establish a plan for
107 professional development for administrators at the school, with an emphasis on strategies that develop
108 leadership skills and use the principles of distributive leadership; (12) establish steps to assure a
109 continuous pipeline of high expertise teachers by aligning the following processes with the common core
110 of professional knowledge and skill: hiring, induction, teacher evaluation, professional development,
111 teacher advancement, school culture, and organizational structure; (13) develop a strategy to search for
112 and study best practices in areas of demonstrated deficiency in the school; (14) establish strategies to
113 address mobility and transiency among the student population of the school; or (15) include additional
114 components, at the discretion of the superintendent, based on the reasons why the school was designated
115 as underperforming and the recommendations of the group of stakeholders in subsection (b).

116 If the superintendent does not accept an application submitted pursuant to clause (7) or if an
117 employee does not submit such an application, the principal, administrator, teacher, or staff member
118 shall retain his seniority and have 12 months to obtain an open position in the school district for which
119 the employee is qualified, but shall not be guaranteed placement in any such open position. Such
120 employee shall not have priority over any other applicant and shall not have bumping rights, so-called.
121 A superintendent may offer professional development during this time. If such a principal,
122 administrator, teacher, or staff member has not obtained a new position within 12 months, his
123 employment shall be terminated.

124 In schools with limited English proficient students, the professional development and planning
125 time for teachers and administrators identified in clauses (9), (10) and (11) shall include specific
126 strategies and content designed to maximize the rapid academic achievement of limited English
127 proficient students at the school.

128 (e) Within 30 days of the local stakeholder group making recommendations pursuant to
129 subsection (b), the superintendent shall submit an innovation plan to the local stakeholder group, the
130 school committee, and the commissioner, all of whom may propose modifications to the plan. The
131 superintendent shall make such plan immediately available to the public upon submission. The
132 stakeholder group, the school committee, and the commissioner shall submit any proposed modifications
133 to the superintendent not more than 30 days after the date of submission of the innovation plan. Such
134 proposed modifications shall be made public immediately upon their submission to the superintendent.
135 The superintendent shall consider and incorporate such modifications into the plan if the superintendent
136 determines that inclusion of such modifications would further promote the rapid academic achievement
137 of students. The superintendent may alter or reject proposed modifications submitted pursuant to this
138 subsection. Not more than 30 days after receiving any proposed modifications, the superintendent shall
139 issue a final innovation plan for the school and shall make such plan immediately available to the public.

140 (f) Not more than 30 days of the issuance of a final innovation plan pursuant to subsection
141 (e), a school committee or local teachers union may appeal to the commissioner regarding 1 or more
142 components of such plan, including the absence of 1 or more modifications proposed pursuant to
143 subsection (e). The commissioner may, in consultation with the superintendent, modify the plan if he
144 determines that: (1) such modifications would further promote the rapid academic achievement of
145 students in the applicable school; (2) a component of the plan was included, or a modification was
146 excluded, on the basis of demonstrably false information or evidence; or (3) the superintendent failed to
147 meet the requirements of subsections (b) to (e), inclusive. The decision of the commissioner regarding an
148 appeal under this subsection shall be made within 30 days and shall be final.

149 (g) If the superintendent deems it necessary to maximize the rapid academic achievement of
150 students at the school by altering the compensation, hours, and working conditions of the administrators,
151 teachers, and staff at the school or other provisions of any contract or collective bargaining agreement
152 applicable to such administrators, teachers, and staff, the superintendent may request that the school

153 committee and any union bargain or reopen the bargaining of the relevant collective bargaining
154 agreement to facilitate such achievement. Such bargaining shall be conducted in good faith and
155 completed no later than 40 days from the date on which the superintendent requested the parties to
156 bargain. The agreement shall be subject to ratification by a majority of the bargaining unit members in
157 the school who will be subject to such agreement. If an agreement is not reached, or the agreement has
158 not been so ratified 10 days after its completion, the superintendent shall have the authority to declare an
159 impasse and unilaterally implement his last, best offer concerning proposed changes to the collective
160 bargaining agreement; provided, however, that the superintendent shall not reduce the compensation and
161 benefits of any administrator, teacher, or staff member unless the hours of such person are
162 proportionately reduced.

163 If the superintendent deems it necessary to maximize the rapid academic achievement of
164 students at the school by altering the terms and length of the contract of the principal at such school, the
165 superintendent may renegotiate the terms and length of the contract to facilitate such achievement. Such
166 negotiation shall be completed no later than 40 days from the date on which the superintendent requested
167 the parties to negotiate. If an agreement has not been reached after 40 days, the superintendent shall
168 have the authority to implement the proposed changes to the contract.

169 (h) The superintendent may, under the circumstances described in this subsection, select an
170 external receiver to operate the school and implement the innovation plan or to assist the superintendent
171 with such implementation. The superintendent may appoint such receiver if he determines that
172 conditions exist in the district that are likely to negatively affect his ability to implement such plan
173 successfully. A school committee may appeal to the commissioner the decision of the superintendent to
174 appoint an external receiver pursuant to this subsection. The commissioner may reverse such decision
175 only if he determines that the superintendent made the decision on the basis of demonstrably false
176 information or evidence. A receiver shall be a non-profit entity or an individual with a demonstrated
177 record of success in improving low-performing schools or the academic performance of disadvantaged

178 students. A receiver shall be subject to chapter 30A, section 11A ½ and chapter 66. A receiver who is an
179 individual shall be subject to chapter 268A.

180 (I) any external receiver selected by the superintendent to operate a school shall have full
181 managerial and operational control over such school as provided in the innovation plan. For all other
182 purposes, the school district in which the school is located shall remain the employer of record.

183 (j) Each innovation plan shall be authorized for a period of not more than 3 years, subject to the
184 provisions of subsection (k). The superintendent or external receiver, as applicable, may develop
185 additional components of the innovation plan and shall develop annual goals for each component of the
186 plan. The superintendent or external receiver, as applicable, shall be responsible for meeting the goals of
187 the plan.

188 (k) Each school designated by the commissioner as underperforming pursuant to subsection
189 (a) shall be reviewed by the superintendent, in consultation with the principal of said school, on not less
190 than an annual basis. The purpose of said review shall be to determine whether the school has met the
191 annual goals in its innovation plan and to assess the overall implementation of the innovation plan. The
192 review shall be in writing and shall be submitted to the commissioner and school committee no later than
193 July 1 for the preceding school year. Such review shall be submitted in a format determined by the
194 department of elementary and secondary education.

195 If the commissioner determines that the school has met the annual performance goals stated in
196 the innovation plan, the review shall be deemed sufficient and the implementation of the innovation plan
197 shall continue. If the commissioner determines that the school has not met 1 or more goals in the
198 innovation plan and that failure to meet such goals may be corrected through reasonable modification of
199 the plan, the superintendent may amend the innovation plan. Where the commissioner determines that
200 the school has substantially failed to meet 1 or more goals in the plan, the commissioner may appoint an
201 examiner to conduct an evaluation of the school's implementation of the innovation plan.

202 In any case in which the commissioner determines that the school has substantially failed to
203 meet multiple goals in the plan, the commissioner may also require changes to the innovation plan to be
204 implemented by the superintendent in the following year. If such changes to the innovation plan require
205 changes in a collective bargaining agreement applicable to administrators, teachers, or staff in the school,
206 the bargaining procedure set forth in subsection (g) shall be followed. In the case of an underperforming
207 school operated by an external receiver, the commissioner may require the superintendent to terminate
208 such receiver and develop a new innovation plan. The superintendent shall not terminate such receiver
209 before the completion of the first full school year of the operation of the underperforming school.

210 (l) Upon the expiration of an innovation plan, the commissioner shall conduct a review of
211 the school to determine whether the school has improved sufficiently, requires further improvement, or
212 has failed to improve. On the basis of such review, the commissioner may determine that (1) the school
213 has improved sufficiently for the designation of the school as underperforming to be removed; (2) the
214 school has improved but the school remains underperforming, in which case the superintendent may,
215 with the approval of the commissioner, renew the plan or create a new or modified plan for an additional
216 period of not more than 3 years; or (3) consistent with the requirements of subsection (a), the school is
217 chronically underperforming. The commissioner may recommend the appointment of an external
218 receiver by the superintendent if the commissioner believes that a new or modified innovation plan
219 implemented by the superintendent will not result in rapid improvement. In carrying out the provisions
220 of this subsection, the superintendent shall: (1) in the case of a renewal of an innovation plan, determine
221 subsequent annual goals for each component of the plan with the input of the local stakeholder group as
222 defined in subsection (b); or (2) create a new or modified innovation plan as necessary, consistent with
223 the requirements of this section.

224 (m) Upon the designation of a school as chronically underperforming pursuant to this
225 section, the commissioner shall create an innovation plan for the school pursuant to the provisions of
226 subsections (m) to (p), inclusive.

227 Before creating the innovation plan required in this subsection, the commissioner shall convene
228 a local stakeholder group of not more than 11 individuals for the purpose of soliciting recommendations
229 on the content of such plan in order to maximize the rapid academic achievement of students. Such
230 group shall consist of not less than the following individuals: (1) the superintendent or a designee; (2) the
231 chair of the school committee or a designee; (3) the president of the local teachers union or a designee;
232 (4) an administrator from the school, who may be the principal, chosen by the superintendent; (5) a
233 teacher from the school chosen by the faculty of the school; (6) a parent from the school chosen by the
234 local parent organization; (7) representatives of applicable state and local social service, health, and child
235 welfare agencies, chosen by the commissioner; and (8) as appropriate, representatives of state and local
236 workforce development agencies, chosen by the commissioner. If the school or district does not have a
237 parent organization or if such organization does not select a parent, the commissioner shall select the
238 parent from among volunteers from the school. The commissioner shall convene such group within 30
239 days of his designating a school as chronically underperforming, and such group shall make its
240 recommendations to the commissioner within 45 days of its initial meeting. Meetings of the local
241 stakeholder group shall be open to the public, and the recommendations submitted to the commissioner
242 pursuant to this subsection shall be publicly available immediately upon their submission.

243 (n) In creating the innovation plan required in subsection (m), the commissioner shall
244 include, after considering the recommendations of the local stakeholder group, provisions intended to
245 maximize the rapid academic achievement of students at the school and shall, to the extent practicable,
246 base the plan on student outcome data, including, but not limited to: (1) data collected pursuant to
247 section 11I or a school or district review performed pursuant to section 55A of chapter 15; (2) student
248 achievement on the Massachusetts comprehensive assessment system; (3) other measures of student
249 achievement, as appropriate; (4) student promotion and graduation rates; (5) achievement data for
250 different subgroups of students, including low-income students as defined by chapter 70, limited English

251 proficient students, and students receiving special education; and (6) student attendance and dismissal
252 rates.

253 The commissioner shall also include in the innovation plan, after considering the
254 recommendations of the local stakeholder group, the following: (1) steps to address social service and
255 health needs of students at the school, and their families, in order to help students arrive and remain at
256 school ready to learn; (2) steps to improve or to expand child welfare services and, as appropriate, law
257 enforcement services in the school community, in order to promote a safe and secure learning
258 environment; (3) as applicable, steps to improve workforce development services provided to students at
259 the school, and their families, in order to provide students and families with meaningful employment
260 skills and opportunities; (4) steps to address achievement gaps for limited English proficient, special
261 education and low-income students, as applicable; and (5) a budget for the school, including any
262 additional funds to be provided by the district, commonwealth, federal government, or other sources.

263 The secretaries of health and human services, labor and workforce development, public safety
264 and security, and other applicable state and local social service, health, and child welfare officials shall
265 coordinate with the secretary of education and the commissioner regarding the implementation of
266 strategies pursuant to clauses (1) to (3), inclusive, of this subsection that are included in a final
267 innovation plan and shall, subject to appropriation, reasonably support such implementation consistent
268 with the requirements of state and federal law applicable to the relevant programs that each such official
269 is responsible for administering.

270 In order to assess the school across multiple measures of school performance and student
271 success, the innovation plan shall include measurable annual goals regarding, but not limited to: (1)
272 student attendance; (2) student safety and discipline; (3) student promotion and graduation; (4) student
273 achievement on the Massachusetts comprehensive assessment system; (5) progress in areas of academic
274 underperformance; (6) progress among subgroups of students, including low-income students as defined

275 by chapter 70, limited English proficient students, and students receiving special education; (7) reduction
276 of achievement gaps among different groups of students; (8) student acquisition and mastery of 21st-
277 century skills; (9) development of college readiness, including at the elementary and middle school
278 levels; (10) parent and family engagement; (11) building a culture of academic success among students;
279 and (12) building a culture of student support and success among school faculty and staff.

280 (o) In creating the innovation plan required in subsection (m), the commissioner may, after
281 considering the recommendations of the group of stakeholders: (1) expand, alter, or replace the
282 curriculum of the school, including the implementation of research-based early literacy programs and the
283 teaching of advanced placement courses, if the school does not already have such programs or courses;
284 (2) reallocate the uses of the existing budget of the school; (3) provide additional funds to the school
285 from the budget of the district, if the school does not already receive funding from the district at least
286 equal to the average per pupil funding received for students of the same classification and grade level in
287 the district; (4) provide funds, subject to appropriation, to increase the salary of any administrator or
288 teacher in the school, in order to attract and retain highly qualified administrators or teachers or to
289 reward administrators or teachers who work in chronically underperforming schools that achieve the
290 annual goals set forth in the innovation plan; (5) expand the school day or school year of the school; (6)
291 for an elementary school, add pre-kindergarten and full-day kindergarten classes, if the school does not
292 already have such classes; (7) limit, suspend, or change 1 or more provisions of any contract or
293 collective bargaining agreement, as such contract or agreement applies to the school, which change may
294 include the adoption of model provisions identified by the commissioner from among existing contracts
295 or collective bargaining agreements in the commonwealth; provided, however, that the commissioner
296 shall not reduce the compensation of any administrator, teacher or staff member unless the hours of such
297 person are proportionately reduced; (8) require the principal and all administrators, teachers, and staff to
298 reapply for their positions in the school, with full discretion vested in the commissioner regarding his
299 consideration of and decisions on any such reapplications; (9) limit, suspend, or change 1 or more school

300 district policies, as such policies relate to the school; (10) include a provision of job-embedded
301 professional development for teachers at the school, emphasizing strategies that involve teacher input
302 and feedback; (11) provide for increased opportunities for teacher planning time and collaboration
303 focused on improving student instruction; (12) put in place a plan for professional development for
304 administrators at the school, emphasizing strategies that develop leadership skills and use the principles
305 of distributive leadership; (13) establish steps to assure a continuous pipeline of high expertise teachers
306 by aligning the following processes with the common core of professional knowledge and skill: hiring,
307 induction, teacher evaluation, professional development, teacher advancement, school culture, and
308 organizational structure; (14) develop a strategy to search for and study best practices in areas of
309 demonstrated deficiency in the school; (15) establish strategies to address mobility and transiency among
310 the student population of the school; or (16) include additional components, at the discretion of the
311 commissioner, based on the reasons why the school was designated as chronically underperforming and
312 the recommendations of the group of stakeholders in subsection (m).

313 If the commissioner proposes to reallocate funds to the school from the district's budget pursuant
314 to clause (3), the commissioner shall notify the school committee, in writing, of the amount of and
315 rationale for such reallocation.

316 If the commissioner does not accept an application submitted pursuant to clause (8) or if an
317 employee does not submit such an application, the principal, administrator, teacher, or staff member will
318 retain his seniority and have 12 months to obtain an open position in the school district for which the
319 employee is qualified, but shall not be guaranteed placement in any such open position. Such an
320 employee seeking an open position shall not have priority over any other applicant and shall not have
321 bumping rights, so called. The commissioner may offer professional development during this time. If
322 such a principal, administrator, teacher, or staff member has not obtained a new position within 12
323 months, his employment shall be terminated.

324 For a school with limited English proficient students, the professional development and planning
325 time for teachers and administrators identified in clauses (10), (11) and (12) shall include specific
326 strategies and content designed to maximize the rapid academic achievement of limited English
327 proficient students at the school.

328 (p) Within 30 days of the local stakeholder group making recommendations pursuant to
329 subsection (m), the commissioner shall submit an innovation plan to the local stakeholder group, the
330 superintendent, and the school committee, all of whom may propose modifications to the plan. The
331 commissioner shall make such plan immediately available to the public upon said submission. The
332 stakeholder group, the superintendent and the school committee shall submit any proposed modifications
333 to the commissioner not more than 30 days after the date of submission of the innovation plan. Such
334 proposed modifications shall be made public immediately upon their submission to the commissioner.
335 The commissioner shall consider and incorporate such modifications into the plan if the commissioner
336 determines that inclusion of such modifications would further promote the rapid academic achievement
337 of students at the applicable school. The commissioner may alter or reject modifications submitted. Not
338 more than 30 days after receiving any proposed modifications pursuant to this subsection, the
339 commissioner shall issue a final innovation plan for the school and shall make such plan immediately
340 available to the public.

341 (q) Within 30 days of the issuance of a final innovation plan pursuant to subsection (p), a
342 superintendent, school committee, or local teachers union may appeal to the board of elementary and
343 secondary education regarding 1 or more components of such plan, including the absence of 1 or more
344 modifications proposed pursuant to subsection (p). A majority of the board, as fully constituted, may
345 vote to modify the plan if the board determines that: (1) such modifications would further promote the
346 rapid academic achievement of students in the applicable school; (2) a component of the plan was
347 included, or a modification was excluded, on the basis of demonstrably false information or evidence; or

348 (3) the commissioner failed to meet the requirements of subsections (m) to (p), inclusive. The decision
349 of the board regarding an appeal under this subsection shall be made within 30 days and shall be final.

350 (r) In the case of a chronically underperforming school, the commissioner may, under the
351 circumstances described in this subsection, send a targeted assistance team to the school to assist the
352 superintendent with the implementation of the innovation plan, require the superintendent to implement
353 the innovation plan, or select an external receiver to operate the school and implement the innovation
354 plan. The commissioner may appoint such external receiver if he determines that: (1) the superintendent
355 is unlikely to implement such plan successfully or (2) conditions exist in the district that are likely to
356 negatively affect the ability of the superintendent to implement such plan successfully. A superintendent
357 may appeal to the board of elementary and secondary education the decision of the commissioner to
358 appoint an external receiver pursuant to this subsection. A majority of the board, as fully constituted,
359 may vote to reverse such decision if the board determines that the commissioner made the decision on
360 the basis of demonstrably false information or evidence. A receiver shall be a non-profit entity or an
361 individual with a demonstrated record of success in improving low performing schools or the academic
362 performance of disadvantaged students. A receiver shall be subject to chapter 30A, section 11A ½ and
363 chapter 66. An external receiver who is an individual shall also be subject to chapter 268A.

364 The commissioner may select said external receiver upon his designation of a school as
365 chronically underperforming. Said external receiver may serve as the commissioner's designee for the
366 purpose of creating a school's innovation plan pursuant to subsections (m) to (p), inclusive.

367 (s) Any external receiver selected by the commissioner to operate a chronically
368 underperforming school shall have full managerial and operational control over such school as provided
369 in the innovation plan. For all other purposes, the school district in which the school is located shall
370 remain the employer of record.

371 (t) Each innovation plan shall be authorized for a period of not more than 3 years, subject to
372 the provisions of subsection (v). The superintendent or external receiver, as applicable, may develop
373 additional components of the plan and shall develop annual goals for each component of the plan, all of
374 which shall be approved by the commissioner. The superintendent or external receiver, as applicable,
375 shall be responsible for meeting the goals of the innovation plan.

376 (u) The commissioner or external receiver, as applicable, shall provide a written report to the
377 school committee on a quarterly basis to provide specific information about the progress being made on
378 the implementation of the school's innovation plan. One of the quarterly written reports shall be the
379 annual evaluation pursuant to subsection (v).

380 (v) The commissioner shall evaluate each chronically underperforming school at least
381 annually. The purpose of such evaluation shall be to determine whether the school has met the annual
382 goals in its innovation plan and to assess the implementation of the plan. The review shall be in writing
383 and shall be submitted to the superintendent and the school committee no later than July 1 for the
384 preceding school year.

385 If the commissioner determines that the school has met the annual performance goals stated in
386 the innovation plan, the review shall be deemed sufficient and the implementation of the innovation plan
387 shall continue. Where the commissioner determines that the school has not met 1 or more goals in the
388 plan, the commissioner may modify the plan.

389 Where the commissioner determines that the school has substantially failed to meet multiple
390 goals in the plan, the commissioner may: (1) for a school operated by a superintendent, appoint an
391 external receiver, as defined in subsection (r), to operate the school or (2) for a school operated by an
392 external receiver terminate the contract of the external receiver. The commissioner shall not terminate
393 such external receiver before the completion of the first full school year of the operation of the
394 chronically underperforming school.

395 (w) Upon the expiration of an innovation plan for a chronically underperforming school, the
396 commissioner shall conduct a review of the school to determine whether the school has improved
397 sufficiently, requires further improvement, or failed to improve. After the review, the commissioner
398 may: (1) renew the plan with the superintendent or external receiver, as applicable, for an additional
399 period of not more than 3 years based on a superintendent's or external receiver's success in meeting the
400 terms of the plan; (2) appoint an external receiver, as defined in subsection (r), to operate the school for a
401 school that is operated by a superintendent and remains chronically underperforming; (3) transfer the
402 operation of the school from the receiver to the applicable superintendent or to another external receiver
403 for a chronically underperforming school that is operated by an external receiver and remains chronically
404 underperforming, or (4) determine that the school has sufficiently improved and remove the designation
405 of chronically underperforming school. In carrying out the provisions of this subsection, the
406 commissioner shall: (1) jointly determine subsequent annual goals for each component of the plan with
407 the superintendent or external receiver for a renewal of an innovation plan; or (2) create a new or
408 modified innovation plan as necessary, consistent with the requirements of this section.

409 (x) The board of elementary and secondary education shall adopt regulations regarding: (1)
410 the conditions under which an underperforming or chronically underperforming school shall no longer
411 be designated as an underperforming or chronically underperforming school and (2) the transfer of the
412 operation of an underperforming or a chronically underperforming school from a superintendent or an
413 external receiver, as applicable, to the school committee. Such regulations shall include provisions to
414 allow a school to retain measures adopted in an innovation plan if, in the judgment of the commissioner,
415 such measures would contribute to the continued improvement of the school.

416 (y) Annually, the commissioner shall report to the joint committee on education, the house and
417 senate committees on ways and means, the speaker of the house and the senate president on the
418 implementation and fiscal impact of this section and section 1K. Such report shall, at a minimum,
419 include a list of all schools currently designated as underperforming or chronically underperforming; a list

420 of all: districts currently designated as chronically underperforming; the plans and timetable for returning
421 such schools and districts to the local school committee; and strategies used in each of the schools and
422 districts to maximize the rapid academic achievement of students.

423 **SECTION 2.** Said chapter 69 of the General Laws is hereby amended by striking out section
424 1K, as so appearing, and inserting in place thereof the following section:-

425 Section 1K.

426 (a) Upon a determination by the board of elementary and secondary education, pursuant to
427 regulations adopted by the board, that a school district has scored in the lowest 5 per cent statewide in
428 the combined composite performance index for English language arts and math, the commissioner shall
429 appoint an independent fact-finding team to determine the reasons for the underperformance and the
430 prospects for improvement. The fact-finding team shall include at least 1 person with expertise in the
431 academic achievement of limited English proficient students. Upon review of the findings of the fact-
432 finding team, the board may designate the district chronically underperforming on the basis of (1)
433 student performance data collected pursuant to section 1I, (2) district review performed pursuant to
434 section 55A, or (3) regulations adopted by the board of elementary and secondary education. Following
435 such a designation, the board shall appoint an external receiver for the district with all the powers of the
436 superintendent and school committee. The external receiver shall be a non-profit entity or an individual
437 with a demonstrated record of success in improving low-performing schools or districts or the academic
438 performance of disadvantaged students, and shall report directly to the commissioner. Any external
439 receiver appointed by the board to operate a district under this subsection shall have full managerial and
440 operational control over such district; provided, however, that the school district shall remain the
441 employer of record for all other purposes. A receiver shall be subject to chapter 30A section 11A1/2 and
442 chapter 66. An external receiver who is an individual shall also be subject to chapter 268A.

443 Not more than 2 per cent of the commonwealth's school districts may be designated as
444 chronically underperforming at any given time.

445 In adopting regulations authorizing the board to designate a district as chronically
446 underperforming, the board shall ensure that such regulations consider multiple indicators of district
447 quality. These indicators shall include: student attendance, student promotion and graduation rates in
448 the district, or the lack of demonstrated significant improvement for 2 or more consecutive years in core
449 academic subjects, either in the aggregate or among subgroups of students, including designations based
450 on special education classification, low-income, English language proficiency, and racial classifications.

451 (b) The commissioner and the external receiver shall create an innovation plan to promote
452 the rapid improvement of the chronically underperforming district. The plan shall specifically focus on
453 the school or schools in the district that have been labeled chronically underperforming pursuant to
454 chapter 69 section 1J and the district policies that have contributed to chronic underperformance.

455 Before creating the innovation plan required in this subsection, the commissioner and external
456 receiver shall convene a local stakeholder group of not more than 11 individuals for the purpose of
457 soliciting recommendations on the content of such plan in order to maximize the rapid academic
458 achievement of students. Such group shall consist of not less than the following individuals: (1) the
459 superintendent, or a designee; (2) the chair of the school committee, or a designee; (3) the president of
460 the local teachers union, or a designee; (4) a selection of administrators from the district, chosen by the
461 commissioner from among volunteers from the district; (5) a selection of teachers from the district,
462 chosen by the local teachers union; (6) a selection of parents from the district chosen by the local parent
463 organization; (7) representatives of applicable state and local social service, health, and child welfare
464 agencies chosen by the commissioner; and (8) as appropriate, representatives of state and local
465 workforce development agencies chosen by the commissioner. If the district does not have a parent
466 organization or if such organization does not select a parent, the commissioner shall select the parents

467 from among volunteers from the district. The commissioner and receiver shall convene such group
468 within 30 days of the board designating a district as chronically underperforming, and such a group shall
469 make its recommendations to the commissioner and receiver within 45 days of its initial meetings.
470 Meetings of the local stakeholder group shall be open to the public, and the recommendations submitted
471 to the commissioner and receiver pursuant to this subsection shall be publicly available immediately
472 upon their submission.

473 (c) In creating the innovation plan, the commissioner and receiver shall include measures
474 intended to maximize the rapid academic achievement of students in the district and shall, to the extent
475 practicable, base the plan on student outcome data, including, but not limited to: (1) data collected
476 pursuant to section 1I of this chapter, or a school or district review performed pursuant to section 55A of
477 chapter 15 of the General Laws; (2) student achievement on the Massachusetts Comprehensive
478 Assessment System; (3) other measures of student achievement, as appropriate; (4) student promotion
479 and graduation rates; (5) achievement data for different subgroups of students, including low-income
480 students as defined in chapter 70, limited English proficient students, and students receiving special
481 education; and (6) student attendance and dismissal rates. In creating the innovation plan required in
482 subsection (b), the commissioner and receiver shall include, after considering the recommendations of
483 the local stakeholder group, the following: (1) steps to address social service and health needs of students
484 in the district, and their families, in order to help students arrive and remain at school ready to learn; (2)
485 steps to improve or expand child welfare services and, as appropriate, law enforcement services in the
486 school district community, in order to promote a safe and secure learning environment; (3) as applicable,
487 steps to improve workforce development services provided to students in the district, and their families,
488 in order to provide students and families with meaningful employment skills and opportunities; (4) steps
489 to address achievement gaps for limited English proficient, special education and low-income students,
490 as applicable; and (5) a budget for the district including any additional funds to be provided by the
491 commonwealth, federal government or other sources.

492 The secretaries of health and human services, public safety and security, labor and workforce
493 development, and other applicable state and local social service, health, and child welfare officials shall
494 coordinate with the secretary of education and the commissioner regarding the implementation of
495 strategies pursuant to clauses (1) through (3) of this subsection that are included in an innovation plan
496 and shall, subject to appropriation, reasonably support such implementation consistent with the
497 requirements of state and federal law applicable to the relevant programs that each such official is
498 responsible for administering.

499 In order to assess the district across multiple measures of district performance and student
500 success, the innovation plan shall include measurable annual goals regarding, but not limited to, the
501 following: (1) student attendance; (2) student safety and discipline; (3) student promotion and
502 graduation; (4) student achievement on the Massachusetts Comprehensive Assessment System; (5)
503 progress in areas of academic underperformance; (6) progress among subgroups of students, including
504 low-income students as defined by chapter 70, limited English proficient students, and students receiving
505 special education; (7) reduction of achievement gaps among different groups of students; (8) student
506 acquisition and mastery of 21st-century skills; (9) development of college readiness, including at the
507 elementary and middle school levels; (10) parent and family engagement; (11) building a culture of
508 academic success among students; and (12) building a culture of student support and success among
509 faculty and staff.

510 (d) In creating the innovation plan under subsection (b), the commissioner and the receiver
511 may, after considering the recommendations of the group of stakeholders: (1) expand, alter, or replace
512 the curriculum of the district or of a school in the district, including the implementation of research-
513 based early literacy programs and the teaching of advanced placement courses, if the district or schools
514 in the district do not already have such programs or courses; (2) reallocate the uses of the existing budget
515 of the district; (3) provide funds, subject to appropriation, to increase the salary of any administrator or
516 teacher in the district, in order to attract and retain highly qualified administrators or teachers or to

517 reward administrators or teachers who work in chronically underperforming districts that achieve the
518 annual goals set forth in the innovation plan; (4) expand the school day or school year of schools in the
519 district; (5) limit, suspend or change 1 or more provisions of any contract or collective bargaining
520 agreement in the district, which change may include the adoption of model provisions identified by the
521 commissioner from among existing contracts or collective bargaining agreements in the Commonwealth,
522 provided, however, that the commissioner shall not reduce the compensation of any administrator,
523 teacher, or staff member unless the hours of such person are proportionately reduced; (6) add pre-
524 kindergarten and full-day kindergarten classes, if the district does not already have such classes; (7)
525 require all district administrators, principals, school administrators, teachers and staff to reapply for their
526 positions within the district, with full discretion vested in the commissioner and receiver regarding their
527 consideration of and decisions on any such reapplications; (8) limit, suspend, or change 1 or more school
528 district policies; (9) include a provision of job-embedded professional development for teachers in the
529 district, with an emphasis on strategies that involve teacher input and feedback; (10) provide for
530 increased opportunities for teacher planning time and collaboration focused on improving student
531 instruction; (11) put in place a plan for professional development for administrators in the district, with
532 an emphasis on strategies that develop leadership skills and use the principles of distributive leadership;
533 (12) establish steps to assure a continuous pipeline of high expertise teachers by aligning the following
534 processes with the common core of professional knowledge and skill: hiring, induction, teacher
535 evaluation, professional development, teacher advancement, school culture, and organizational structure;
536 (13) develop a strategy to search for and study best practices in areas of demonstrated deficiency in the
537 district; (14) establish strategies to address mobility and transiency among the student population of the
538 district; or (15) include additional components, at the discretion of the commissioner and the receiver,
539 based on the reasons why the district was designated as chronically underperforming and based on the
540 recommendations of the local stakeholder group.

541 If the commissioner and the receiver do not accept an application submitted pursuant to clause (7) or if
542 an employee does not submit such an application, the administrator, principal, teacher, or staff member
543 will retain his or her seniority and have 12 months to obtain an open position in the district for which the
544 employee is qualified, but shall not be guaranteed placement in any such open position. Such an
545 employee seeking an open position shall not have priority over any other applicant and shall not have so-
546 called bumping rights. The commissioner may offer professional development during this time. If such
547 an administrator, principal, teacher, or staff member has not obtained a new position within 12 months,
548 his or her employment will be terminated.

549 For a district with limited English proficient students, the professional development and
550 planning time for teachers and administrators identified in clauses (9), (10) and (11) shall include
551 specific strategies and content designed to maximize the rapid academic achievement of limited English
552 proficient students in the district.

553 (e) The innovation plan shall be authorized for a period of not more than 3 years, subject to
554 the provisions of subsection (g). The commissioner and receiver may jointly develop additional
555 components of the plan, and shall jointly develop annual goals for each component of the plan. The
556 receiver shall be responsible for meeting the goals of the innovation plan.

557 (f) The commissioner and receiver shall provide a written report to the school committee on
558 a quarterly basis to provide specific information about the progress being made on the implementation of
559 the district's innovation plan. One of the quarterly reports shall be the annual evaluation pursuant to
560 subsection (g).

561 (g) The commissioner shall evaluate the performance of the receiver on not less than an
562 annual basis. The purpose of such evaluation shall be to assess the implementation of the innovation
563 plan and determine whether the district has met the annual goals contained in the innovation plan. The

564 evaluation shall be in writing and submitted to the board and the local school committee no later than
565 July 1 for the preceding school year.

566 If the commissioner determines that the district has met the annual performance goals stated in
567 the innovation plan, the evaluation shall be deemed sufficient and the implementation of the innovation
568 plan shall continue.

569 In any case in which the commissioner determines that the receiver has not met 1 or more goals
570 in the plan, and that the failure to meet such goals may be corrected through reasonable modification of
571 such plan, the commissioner may amend the innovation plan, as necessary. After assessing the
572 implementation of the innovation plan in the district, the commissioner may amend the plan if the
573 commissioner determines that such amendment is necessary in view of subsequent changes in the district
574 that affect 1 or more components of the plan, including, but not limited to, changes to contracts,
575 collective bargaining agreements, or school district policies. In any case in which the commissioner
576 determines that the receiver has substantially failed to meet multiple goals in the innovation plan, the
577 commissioner may terminate such receiver, except that such termination shall not occur before the
578 completion of the first full school year of the receivership of the district.

579 (h) After the period of receivership, there shall be a reevaluation of a district's status under
580 this section. The board of elementary and secondary education shall adopt regulations providing for: (1)
581 the removal of a designation of a district as chronically underperforming; and (2) the transfer of the
582 operation of a chronically underperforming district from an external receiver to the superintendent and
583 school committee, based on the improvement of such district. Such regulations shall include provisions
584 to allow a district to retain measures adopted in an innovation plan if, in the judgment of the
585 commissioner, such measures would contribute to the continued improvement of the district. At any
586 time after a chronically underperforming district has been placed in receivership, the school committee
587 of such district may petition the commissioner for a determination as to whether the innovation plan

588 adopted pursuant to subsection (b) should be modified or eliminated, and whether the school district
589 shall no longer be designated as chronically underperforming. The decision of the commissioner shall
590 be based on regulations adopted by the board pursuant to this subsection. A school committee may seek
591 review by the board of elementary and secondary education of any adverse determination. The
592 determination of the board shall be subject to judicial review in accordance with the provisions of section
593 14 of chapter 30A of the General Laws.

594 (I) If, on the basis of the regulations adopted by the board pursuant to subsection (h), a
595 district has not improved sufficiently to remove the designation of such district as chronically
596 underperforming, the commissioner may: (1) jointly determine subsequent annual goals for each
597 component of the innovation plan with the receiver, and renew the innovation plan for an additional
598 period of not more than 3 years or (2) create a new innovation plan, consistent with the requirements of
599 this section.

600 (j) If a municipality has failed to fulfill its fiscal responsibilities to education under chapter
601 70 of the General Laws, the commissioner shall declare the school district such municipality serves as
602 chronically underperforming, subject to the approval of the board of elementary and secondary
603 education. The municipality's mayor or chairman of the board of selectmen shall have the opportunity
604 to present evidence to the board. A vote by the board that a school district is chronically
605 underperforming for fiscal reasons shall authorize the commissioner to petition the commissioner of
606 revenue to require an increase in funds for the school district, alleging that the amount necessary in said
607 community for the support of public schools has not been included in the annual budget appropriations.
608 The commissioner of revenue shall determine the amount of any deficiency pursuant to the sums
609 required under chapter 70, if any, and issue an order compelling the community to provide a sum of
610 money equal to such deficiency. If the community does not provide a sum of money equal to such
611 deficiency, the commissioner of revenue, in accordance with his or her powers in section 23 of chapter
612 59 of the General Laws, shall not approve the tax rate of the community for the fiscal year until the

613 deficiency is alleviated. Nothing in this subsection shall be construed as creating a cause of action for
614 educational malpractice by students or their parents, guardians or persons acting as parents.

615 If the district is declared chronically underperforming pursuant to this subsection, the provisions of this
616 subsection shall supersede those in subsections (a) – (I).

617 **SECTION 3.** Chapter 71 of the General Laws, as appearing in the 2008 Official Edition, is
618 hereby amended by inserting after section 91 the following section:-

619 Innovation Schools; approval process; innovation plan; evaluation

620 (a) An Innovation School shall be a public school, operating within a public school district,
621 that is established for the purpose of improving school performance and student achievement through
622 increased autonomy and flexibility. An Innovation School may be established as a new public school or
623 as a conversion of an existing public school. Any student who is enrolled in a school at the time it is
624 established as an Innovation School shall retain the ability to remain enrolled in such school if such
625 student chooses to do so.

626 (b) An Innovation School may establish an advisory board of trustees. An Innovation
627 School shall have increased autonomy and flexibility in one or more of the following areas: (1)
628 curriculum; (2) budget; (3) school schedule and calendar; (4) staffing policies and procedures, including
629 waivers from or modifications to contracts or collective bargaining agreements; (5) school district
630 policies and procedures; and (6) professional development. An Innovation School shall receive each
631 school year from the school committee the same per pupil allocation as a district school other than an
632 Innovation School receives. An Innovation School may retain any unused funds and use such funds in
633 subsequent school years. An Innovation School may establish a non-profit organization that may, among
634 other things, assist the school with fundraising. A district may not reduce its funding to an Innovation
635 School as a result of such school's fundraising activities.

636 (c) An Innovation School established pursuant to this section shall be authorized by the
637 local school committee and shall operate according to an innovation plan, which shall articulate the areas
638 of autonomy and flexibility under subsection (b) that the school will use. To the extent practicable, the
639 innovation plan shall be based on student outcome data, including, but not limited to: (1) student
640 achievement on the Massachusetts Comprehensive Assessment System; (2) other measures of student
641 achievement, as appropriate; (3) student promotion and graduation rates; (4) achievement data for
642 different subgroups of students, including low-income students as defined by chapter 70, limited English
643 proficient students, and students receiving special education; and (5) student attendance and dismissal
644 rates.

645 An Innovation School shall operate in accordance with the provisions of law regulating other
646 public schools, except as such provisions conflict with the provisions of this section or the provisions of
647 any innovation plans created thereunder.

648 (d) An Innovation School is a school (i) in which school faculty and leadership are
649 primarily responsible for developing the innovation plan under which the school operates, and in which
650 school leadership is responsible for meeting the terms of the innovation plan; or (ii) in which an external
651 partner or partners is primarily responsible for developing the innovation plan under which the school
652 operates, and in which the external partner or partners is responsible for meeting the terms of the
653 innovation plan.

654 (e) Nothing in this section shall be construed as prohibiting: (1) the establishment of an
655 Innovation School as an academy within an existing public school; (2) the establishment of an
656 Innovation School serving students from 2 or more school districts provided that all of the provisions of
657 this section are met by each school district; (3) the simultaneous establishment of 2 or more Innovation
658 Schools as an Innovation Schools Zone within a school district; or (4) the establishment of an Innovation
659 School as a virtual public school that provides instruction to students through distance learning,

660 including online learning programs and courses, subject to regulations adopted by the board of
661 elementary and secondary education.

662 (f) The following shall be eligible applicants for the purposes of establishing an Innovation
663 School: (1) parents; (2) teachers; (3) parent-teacher organizations; (4) principals; (5) superintendents; (6)
664 school committees; (7) teacher unions; (8) colleges and universities; (9) non-profit community-based
665 organizations; (10) non-profit business or corporate entities; (11) non-profit charter school operators;
666 (12) non-profit education management organizations; (13) educational collaborative; (14) consortia of
667 these groups; and (15) any non-profit entity authorized by the commissioner. Private and parochial
668 schools shall not be eligible to operate an Innovation School.

669 (g) The local school committee, local teachers union and superintendent of the district shall
670 develop a process, consistent with subsections (g) through (o), for which an existing district school may
671 be converted to an Innovation School or by which a new Innovation School may be established within
672 the district. This process shall require that an eligible applicant proposing to establish an Innovation
673 School prepare a prospectus regarding such proposed school. The prospectus shall include, but not be
674 limited to, a description of: (1) whether the school will be a new school or a conversion of an existing
675 school; (2) if the school is a new school, the proposed location of the school; (3) if the school is a
676 conversion of an existing school, the school that is being proposed for conversion; (4) the external
677 partners, if any, that will be involved in the school; (5) the number of students the school is anticipated to
678 serve, and the number of staff expected to be employed at the school; (6) the overall vision for the
679 school, including with respect to improving school performance and student achievement; (7) specific
680 needs or challenges the school will be designed to address; (8) a preliminary assessment of the autonomy
681 and flexibility under subsection (b) that the school will seek; (9) why such flexibility is desirable to carry
682 out the objectives of the school; (10) anticipated components of the school's innovation plan; (11) a
683 preliminary description of the process that will be used to involve appropriate stakeholders in the

684 development of the innovation plan; and (12) a proposed timetable for development and establishment of
685 the proposed school.

686 (h) Upon completion of the prospectus described in subsection (g), an eligible applicant
687 shall submit such prospectus to the superintendent, who shall within 30 days convene a screening
688 committee consisting of the superintendent or a designee; a school committee member or a designee
689 selected by the school committee; and a representative from the leadership of the local teachers union.

690 The screening committee shall review the prospectus for the overall purpose of determining
691 whether the prospectus: (1) presents a sound and coherent plan for improving school performance and
692 student achievement; (2) supports or enhances existing educational efforts in the district; and (3)
693 reasonably can be expanded into a comprehensive innovation plan. In the case of a new school, the
694 committee will prepare an impact statement describing how the new school will affect the children and
695 faculty in the district. Within 30 days of receiving a prospectus, the screening committee shall decide,
696 on the basis of a 2/3 vote, to accept or reject the prospectus, or return the prospectus to the eligible
697 applicant for revisions. In any case in which a prospectus is rejected or returned, the screening
698 committee shall submit a detailed explanation for such decision to the applicant. Any prospectus that is
699 rejected or returned pursuant to this subsection may be revised and resubmitted for subsequent
700 consideration.

701 (i) Upon the acceptance of a prospectus by the screening committee under subsection (h),
702 within 30 days the applicant shall form an innovation plan committee of not more than 11 individuals
703 pursuant to this section. The purpose of the innovation plan committee shall be to: (1) develop the
704 innovation plan described in subsection (c); (2) assure that appropriate stakeholders are represented in
705 the development of the proposed Innovation School; and (3) provide meaningful opportunities for such
706 stakeholders to contribute to the development of such school. The size and composition of the
707 innovation plan committee shall be determined by the applicant; provided, however, that the committee

708 shall include not less than: (1) the applicant; (2) the superintendent or a designee; (3) a school committee
709 member or a designee; (4) a parent who has 1 or more children enrolled in the school, or in the case of a
710 new school, from the district; (5) a principal employed by the district; and (6) 2 teachers employed by
711 the district. The applicant shall select the parent from among nominees submitted by parent-teacher
712 organizations in the district. If the district does not contain a parent-teacher organization, or if such
713 organization does not submit nominees, the applicant shall select the parent from among volunteers in
714 the area or community the proposed school is expected to serve. The applicant shall select the principal
715 and 1 teacher from among volunteers in the district, and 1 teacher from among nominees submitted by
716 the local teachers union.

717 (j) Upon the formation of the innovation plan committee in subsection (I), such committee
718 shall develop the innovation plan for the proposed Innovation School. The purpose of the innovation
719 plan shall be to comprehensively articulate the areas of autonomy and flexibility under subsection (b)
720 that the proposed school will use. The innovation plan shall include, but not be limited to: (1) a
721 curriculum plan, which shall include a detailed description of the curriculum and related programs for
722 the proposed school, and how such curriculum is expected to improve school performance and student
723 achievement; (2) a budget plan, which shall include a detailed description of how funds will be used
724 differently in the proposed school to support school performance and student achievement; (3) a school
725 schedule plan, which shall include a detailed description of the ways, if any, the program or calendar of
726 the proposed school will be enhanced or expanded; (4) a staffing plan, which shall include a detailed
727 description of how the school principal, administrators, faculty and staff will be recruited, employed,
728 evaluated, and compensated in the proposed school and any proposed waivers or modifications of
729 collective bargaining agreements; (5) a policy and procedures plan, which shall include a detailed
730 description of the unique operational policies and procedures to be used by the proposed school, and how
731 such procedures will support school performance and student achievement; and (6) a professional

732 development plan, which shall include a detailed description of how the school will provide high quality
733 professional development to its administrators, teachers and staff.

734 In order to assess the proposed school across multiple measures of school performance and
735 student success, the innovation plan shall include measurable annual goals regarding, but not limited to,
736 the following: (1) student attendance; (2) student safety and discipline; (3) student promotion and
737 graduation; (4) student achievement on the Massachusetts Comprehensive Assessment System; (5)
738 progress in areas of academic underperformance; (6) progress among subgroups of students, including
739 low-income students as defined by chapter 70, limited English proficient students, and students receiving
740 special education; (7) reduction of achievement gaps among different groups of students; (8) student
741 acquisition and mastery of 21st-century skills; (9) development of college readiness, including at the
742 elementary and middle school levels; (10) parent and family engagement; (11) building a culture of
743 academic success among students; and (12) building a culture of student support and success among
744 school faculty and staff.

745 A majority vote of the innovation plan committee shall be required for approval of the
746 innovation plan.

747 (k) The provisions of the collective bargaining agreements applicable to the administrators,
748 teachers, and staff in the school shall be deemed to be in operation at an Innovation School, except to the
749 extent such provisions are waived or modified under the innovation plan, and such waivers or
750 modifications are approved pursuant to the succeeding subsections.

751 (l) Upon completion of the innovation plan in subsection (j), in the case of a school
752 conversion, the applicant shall submit the innovation plan to teachers in the school that is proposed for
753 conversion for approval by secret ballot within 30 days. A 2/3 vote of the teachers shall be required to
754 approve such plan. Upon approval of an innovation plan by the teachers, the plan shall be submitted
755 immediately to the school committee. In any case in which a 2/3 vote is not achieved, the innovation

756 plan committee may revise the innovation plan as necessary, and submit such revised plan to the teachers
757 for a subsequent vote.

758 Upon the completion of the innovation plan in subsection (j), in the case of a new school, the
759 applicant, a local union, and the superintendent shall negotiate waivers or modifications to the applicable
760 collective bargaining agreement necessary for the school to implement the innovation plan. Upon the
761 conclusion of such negotiations, the innovation plan shall be submitted immediately to the school
762 committee. If such negotiations have not resulted in an agreement within 40 days, either party may
763 petition the division of labor relations for the selection of an arbitrator. The division shall select an
764 arbitrator within three days of such petition from a list submitted by the parties. The arbitrator shall
765 conduct a hearing within fourteen days of the arbitrator's selection. The arbitrator shall consider the
766 parties' positions and the needs of the students in the district, provided further that the arbitrator's
767 decision shall be consistent with the contents of the innovation plan developed by the applicant. The
768 arbitrator shall submit a decision which shall be final and binding on the parties, within fourteen days of
769 the close of the hearing.

770 (m) Upon receipt of an innovation plan regarding an Innovation School, a school committee
771 shall hold not less than 1 public hearing on the innovation plan. Subsequent to such public hearing, but
772 not later than 60 days after the receipt of the innovation plan, the school committee shall, on the basis of
773 the quality of the plan, and in consideration of comments submitted by the public, undertake a final vote
774 to authorize the Innovation School for a period of not more than 5 years, subject to the provisions of
775 subsection (n). Approval of the majority of the school committee as fully constituted shall be required to
776 authorize an Innovation School. In any case in which such approval is not achieved, an innovation plan
777 committee may revise the innovation plan and: (1) in the case of a new school, submit such revised plan
778 to the school committee for a subsequent vote; or (2) in the case of a conversion, submit such revised
779 plan to the teachers in the school that is proposed for conversion for a vote, pursuant to the requirements
780 of subsection (l) and, provided the plan meets the requirements for approval under subsection (l), submit

781 such revised plan to the school committee for a subsequent vote. A school committee shall vote on a
782 revised plan submitted pursuant to this subsection within 60 days of the receipt of such plan and
783 contract.

784 If the school committee does not approve the revised innovation plan, the Innovation School
785 applicant may seek approval of such revised plan by the board of elementary and secondary education.
786 The board shall vote on the revised plan within 60 days of its receipt of a request for approval by the
787 applicant.

788 (n) All Innovation Schools authorized under subsection (m) shall be evaluated by the
789 superintendent on not less than an annual basis. The superintendent shall transmit such evaluation to the
790 school committee and the commissioner of elementary and secondary education. The purpose of such
791 evaluation shall be to determine whether the school has met the annual goals in its innovation plan and
792 assess the implementation of the innovation plan at the school. In any case in which the school
793 committee determines, on the advice of the superintendent, that the school has not met 1 or more goals in
794 the innovation plan, and that the failure to meet such goals may be corrected through reasonable
795 modification of such plan, the school committee may amend the innovation plan as necessary. After the
796 superintendent assesses the implementation of the innovation plan at the school, the school committee
797 may, on the advice of the superintendent, amend the plan if the school committee determines that such
798 amendment is necessary in view of subsequent changes in the district that affect 1 or more components
799 of the plan, including, but not limited to, changes to contracts, collective bargaining agreements, or
800 school district policies; provided, however, that any amendment involving a subsequent change to a
801 teacher contract shall first be approved by teachers at the school, pursuant to the procedures in
802 subsection (l).

803 In any case in which the school committee determines, on the advice of the superintendent, that
804 the school has substantially failed to meet multiple goals in the innovation plan, the school committee

805 may, on the advice of the superintendent: (1) limit 1 or more components of the innovation plan, as
806 necessary; (2) suspend 1 or more components of the innovation plan, as necessary; or (3) terminate the
807 authorization of the school; provided, however, that such limitation or suspension shall not take place
808 before the completion of the second full year of the operation of the school, and such termination may
809 not take place before the completion of the third full year of the operation of the school.

810 (o) At the end of the period of authorization of an Innovation School approved under
811 subsection (m), the leadership of such school may petition the school committee to extend the
812 authorization of the school for an additional period of not more than 5 years. Before submitting such
813 petition, the leadership of the school shall convene a selection of school stakeholders, including, but not
814 limited to, administrators, teachers, other school staff, parents, and external partners, as applicable, to
815 discuss whether the innovation plan at the school requires revision, and to solicit recommendations as to
816 such potential revisions. After considering the recommendations of the stakeholder group, the leadership
817 of the school and the applicable superintendent shall jointly update the innovation plan as necessary;
818 provided, however, that any proposal regarding a new waiver or exemption from the local teachers union
819 contract shall be approved by teachers at the school, pursuant to the provisions of subsection (l).
820 Approval of the majority of the school committee as fully constituted shall be required to extend the
821 period of authorization of an Innovation School. In any case in which such approval is not achieved, the
822 leadership of the school and superintendent may jointly revise the innovation plan and submit such
823 revised plan to the school committee for a subsequent vote. If the school committee does not extend the
824 authorization of the school, the leadership of the school may seek such authorization from the board of
825 elementary and secondary education. The board shall vote on the requested extension within 60 days of
826 its receipt for approval of such extension.

827 (p) The commissioner of elementary and secondary education shall be responsible for the
828 following: (1) to the extent practicable, the provision of planning and implementation grants to eligible
829 applicants to establish Innovation Schools; (2) to the extent practicable, provision of technical assistance

830 and support to eligible applicants; (3) the collection and publication of data and research related to the
831 Innovation Schools initiative; (4) the collection and publication of data and research related to successful
832 programs serving limited English proficient students attending Innovation Schools; (5) the collection and
833 dissemination of best practices in Innovation Schools that can be adopted by other public schools. The
834 board of elementary and secondary education shall promulgate regulations necessary to carry out the
835 provisions of this section. On an annual basis, the commissioner shall report to the joint committee on
836 education, the house and senate committees on ways and means, the speaker of the House of
837 Representatives and the senate president on the implementation and fiscal impact of this section.

838 **SECTION 4.** Chapter 71 is hereby amended by striking out section 89 and inserting in place
839 thereof the following:-

840 Section 89. Commonwealth charter schools; Horace Mann charter schools; applications;
841 enrollment; employees; funding

842 Section 89. (a) The purposes for establishing charter schools are: (1) to stimulate the
843 development of innovative programs within public education; (2) to provide opportunities for innovative
844 learning and assessments; (3) to provide parents and students with greater options in choosing schools
845 within and outside their school districts; (4) to provide teachers with a vehicle for establishing schools
846 with alternative, innovative methods of educational instruction and school structure and management; (5)
847 to encourage performance-based educational programs; (6) to hold teachers and school administrators
848 accountable for students' educational outcomes; and (7) to provide models for replication in other public
849 schools.

850 (b) A commonwealth charter school shall be a public school, operated under a charter granted
851 by the board of elementary and secondary education, which operates independently of any school
852 committee and is managed by a board of trustees. The board of trustees of a commonwealth charter
853 school, upon receiving a charter from the board of elementary and secondary education, shall be deemed

854 to be public agents authorized by the commonwealth to supervise and control the charter school. The
855 board of elementary and secondary education may grant a charter or amend an existing charter
856 designating a commonwealth charter school as a regional charter school if such school enrolls students
857 from more than one district.

858 A Horace Mann charter school shall be a public school or part of a public school operated under
859 a charter approved by the school committee in the district in which the school is located; provided,
860 however, that the school committee shall consult with the local teachers union prior to such approval;
861 and provided further that all charters shall be granted by the board of elementary and secondary
862 education. A Horace Mann charter school shall have a memorandum of understanding with the school
863 committee of the district in which the charter school is located which, at a minimum, defines the services
864 and facilities to be provided by the district to the charter school and states the funding of the charter
865 school by the district. A Horace Mann charter school shall be operated and managed by a board of
866 trustees independent of the school committee which approved said school. The board of trustees may
867 include a member of the school committee.

868 (c) For the purposes of this section, the words “charter school” or “charter schools” shall refer to
869 both commonwealth charter schools and Horace Mann charter schools unless specifically stated
870 otherwise.

871 (d) The following shall be eligible to apply to establish a charter school: (1) parents; (2)
872 teachers; (3) parent-teacher organizations; (4) principals; (5) superintendents; (6) school committees; (7)
873 teacher unions; (8) colleges and universities; (9) non-profit community-based organizations; (10) non-
874 profit business or corporate entities; (11) non-profit charter school operators; (12) non-profit education
875 management organizations; (13) non-profit educational collaboratives; (14) consortia of these groups;
876 and (15) any non-profit entity authorized by the commissioner. Private and parochial schools shall not

877 be eligible to establish a charter school. The commissioner shall provide technical assistance to public
878 school districts to assist in the development of proposals for Horace Mann charter schools.

879 (e) The board of elementary and secondary education shall establish the information needed in
880 an application for the approval of a charter school; provided, however, that said application shall include
881 but not be limited to a description of: (1) the mission, purpose, innovation and specialized focus of the
882 proposed charter school; (2) the innovative methods to be used in the charter school and how they differ
883 from the district or districts from which the charter school will enroll students; (3) efforts made by the
884 applicant, if any, to implement the proposed educational program or model in the school district or
885 districts from which the charter will enroll students; (4) the organization of the school in terms of ages
886 of students or grades to be taught along with an estimate of the total enrollment of the school and the
887 district or districts from which the school will enroll students; (5) the method for admission to the
888 charter school; (6) a student recruitment and retention plan; (7) the educational program, instructional
889 methodology and services to be offered to students, including research on how the proposed program
890 will improve the academic performance of the subgroups listed in the recruitment and retention plan; (8)
891 the school's capacity to address the particular needs of limited English proficient students, if applicable,
892 to learn English and learn content matter, including the employment of staff that meets the criteria
893 established by the department; (9) how the school will involve parents as partners in the education of
894 their children; (10) the school governance and bylaws; (11) any proposed or signed arrangements or
895 contracts with an organization that would manage or operate the school, including any proposed or
896 agreed upon payments to such organization; (12) the financial plan for the operation of the school; (13)
897 the provision of school facilities and pupil transportation; (14) the number and qualifications of teachers
898 and administrators to be employed; (15) procedures for evaluation and professional development for
899 teachers and administrators; (16) a statement of equal educational opportunity which shall state that the
900 charter school shall be open to all students, on a space available basis, and shall not discriminate on the
901 basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability,

902 age, ancestry, athletic performance, special need, proficiency in the English language, or academic
903 achievement; and (17) parental intent to register forms from a significant percentage of the projected first
904 year enrollment of the charter school; such forms shall include the student's home address and grade
905 level, a parent's signature, and other information necessary for the verification of this information
906 through census or department databases; the names and addresses on the intent to register forms shall be
907 validated by the clerk of the municipality in which the student resides. In the case of a Horace Mann
908 charter school, the application shall include a draft memorandum of understanding, as described in
909 subsection (b).

910 (f) The aforementioned student recruitment and retention plan shall include but not be limited to
911 a detailed description of deliberate, specific strategies the charter school will use to attract, enroll, and
912 retain a student population that, when compared to students in similar grades in schools from which the
913 charter school will enroll students, contains a comparable or greater percentage of students from 3 or
914 more of the following categories: eligible for free lunch as defined in chapter 70 section 2; eligible for
915 reduced price lunch as defined in chapter 70, section 2; special education; limited English proficient of
916 similar language proficiency level as measured by the Massachusetts English Proficiency Assessment
917 examination; sub-proficient, which shall mean students who have scored in the "needs improvement,"
918 "warning" or "failing" categories on the mathematics or English language arts exams of the
919 Massachusetts Comprehensive Assessment System for 2 of the past 3 years or as defined by the
920 department using a similar measurement; students who are determined to be at risk of dropping out of
921 school based on predictors determined by the department; students who have dropped out of school; or
922 other at-risk students who should be targeted in order to eliminate achievement gaps among different
923 groups of students. If a school is or will be in a district with 10 percent or more of limited English
924 proficient students, the recruitment strategies shall include a variety of outreach efforts in the most
925 prevalent languages of the district. The student recruitment and retention plan shall include, but not be
926 limited to, a detailed description of deliberate, specific strategies the school will use to: maximize the

927 number of students who successfully complete all school requirements; prevent students from dropping
928 out; and minimize the number of students in the categories enumerated in this subsection from returning
929 to district schools. The student recruitment and retention plan shall include annual benchmarks,
930 including for (i) recruitment activities, (ii) the number of students in the categories of students identified
931 in the plan who seek to enroll in the school (iii), student retention activities, and (iv) student retention.
932 The recruitment and retention plan shall be updated each year to account for changes in both district and
933 charter school enrollment. A charter school whose charter was granted prior to January 1, 2010 shall
934 have a recruitment and retention plan in effect for the 2011-2012 school year or at the time of its next
935 charter renewal, whichever occurs first.

936 (g) In order to ensure that commonwealth charter schools authorized under this section are able
937 to recruit and serve the categories of students enumerated in subsection (f), the school district or districts
938 from which the commonwealth charter school will enroll students shall annually provide to a third party
939 mail house authorized by the department the addresses for all students in the district eligible to enroll in
940 the school, unless a student's parent or guardian requests that the district withhold this information.
941 Each commonwealth charter school authorized under this section shall annually supply a mailing in the
942 most prevalent languages of the district or districts the charter school is authorized to serve to the third
943 party mail house and pay for it to be copied and mailed to such eligible students.

944 At the request of a school district from which a commonwealth charter school enrolls students,
945 said charter school shall provide to said third party mail house the addresses for all students currently
946 enrolled in the commonwealth charter school from said district, unless a student's parent or guardian
947 requests that the school withhold the information. Each district shall be permitted to supply a mailing to
948 the third party mail house and pay for it to be copied and mailed to families of students from said district
949 enrolled in the commonwealth charter school.

950 (h) An application submitted for the establishment of a commonwealth charter school shall: (1)
951 be submitted to the board of elementary and secondary education for approval pursuant to this section;
952 and (2) be filed with the local school committee for each school district from which the charter school
953 will enroll students. Before final approval to establish a commonwealth charter school, the board of
954 elementary and secondary education shall hold a public hearing on said application in the school district
955 in which the proposed charter school is to be located. In the case of a regional commonwealth charter
956 school, such public hearing shall be held in a location within the region. At least one member of the
957 board of elementary and secondary education shall attend each public hearing soliciting comment on a
958 pending application and shall report to the board of elementary and secondary education on the hearing.
959 Before final approval to establish a commonwealth charter school, the board of elementary and
960 secondary education shall solicit and review comments on the application from the local school
961 committee for each school district from which the charter school will enroll students. The town or city
962 clerk for any municipality from which the commonwealth charter school will enroll students shall review
963 and confirm the home address of any resident signing a petition submitted to the board of elementary and
964 secondary education in support of or in opposition to a commonwealth charter school.

965 All information submitted to the board of elementary and secondary education by a
966 commonwealth charter school applicant shall be submitted simultaneously to affected districts and shall
967 be immediately made available by the board of elementary and secondary education to members of the
968 public without a request pursuant to chapter 66 section 10. Any department report regarding the
969 application shall be made available to the commonwealth charter school applicant and affected districts
970 within ten days of the completion of said report. All material in support of or in opposition to the school
971 submitted to the department or the board of elementary and secondary education shall be made available
972 to the applicant and affected school districts at least 10 working days in advance of the meeting at which
973 the board of elementary and secondary education will consider the application. There shall be a ten

974 working day freeze on any new material to be made available to the board of elementary and secondary
975 education prior to the day of the board vote on a commonwealth charter school application.

976 (i) In any fiscal year, a public school district's total charter school tuition payment to
977 commonwealth charter schools shall not exceed 9 percent of said district's net school spending;
978 provided, however, that a public school district's total charter tuition payment to commonwealth charter
979 schools shall not exceed 18 percent of said district's net school spending if the board of elementary and
980 secondary education determines the combined Composite Performance Index scores on the English
981 language arts and mathematics Massachusetts Comprehensive Assessment System exams for a school
982 district place said district in the lowest ten percent of all statewide MCAS test performance scores
983 released in the two consecutive school years prior to the date the charter school application is submitted.

984 If the department is no longer using the combined composite performance index as a measure of
985 school and district performance, the department shall use the subsequently developed measure to
986 determine the lowest ten percent of districts.

987 The commonwealth shall incur charter school tuition payments for siblings attending
988 commonwealth charter schools to the extent that their attendance would otherwise cause said school
989 district's charter school tuition payments to exceed 9 per cent of said school district's net school
990 spending or 18 percent in the case of the lowest performing 10 percent of school districts. If a district is
991 no longer in the lowest 10 percent, the net school spending cap shall be 9 percent, unless the district net
992 school spending was above 9 percent in the year prior to moving out of the lowest 10 percent in which
993 case the net school spending cap shall remain at the higher level. If a district is again ranked in the
994 lowest 10 percent based on 2 consecutive years of performance, the net school spending cap shall
995 increase pursuant to this section.

996 As early as possible in the application process and no later than October 15, the board of
997 elementary and secondary education shall determine and make available to the public a list of the school

998 districts in said lowest 10 percent and shall provide information about net school spending in each such
999 district. Applications to establish a charter school shall be submitted to the board of elementary and
1000 secondary education each year by November 15. The board of elementary and secondary education shall
1001 review the applications and grant new charters in February of the following year.

1002 Not less than three of the new commonwealth charters approved by the board of elementary and
1003 secondary education in any year shall be granted for commonwealth charter schools located in districts
1004 where overall student performance on the statewide assessment system approved by the board of
1005 elementary and secondary education pursuant to section 1I of chapter 69 is in the lowest 10 percent
1006 statewide in the two years preceding said charter application. In any year, the board of elementary and
1007 secondary education shall approve only one regional charter school application of any commonwealth
1008 charter school located in a school district where overall student performance on the statewide assessment
1009 system is in the top 10 per cent in the year preceding charter application.

1010 For districts scoring in the lowest 10 percent in the state for the previous 2 years as measured by
1011 the combined Composite Performance Index scores on the English language arts and mathematics
1012 Massachusetts Comprehensive Assessment System exams, the board of elementary and secondary
1013 education may only approve an application for the establishment of a commonwealth charter school
1014 under this subsection for eligible applicants. In order to be eligible to apply to operate a commonwealth
1015 charter school serving students in districts scoring in the lowest 10 percent an applicant, or a provider
1016 with which an applicant proposes to contract, must have a record of operating at least 1 school or similar
1017 program that demonstrates academic success and organizational viability and serves student populations
1018 similar to those the proposed school seeks to serve, from among the categories defined in subsection (f).

1019 For districts not scoring in the lowest 10 percent in the state for the previous 2 years as measured
1020 by the combined Composite Performance Index scores on the English language arts and mathematics
1021 Massachusetts Comprehensive Assessment System exams, preference shall be given to applicants who

1022 have a record of operating at least 1 school or similar program that demonstrates academic success and
1023 organizational viability and serves student populations similar to those the proposed school seeks to
1024 serve, from among the categories defined in subsection (f).

1025 (j) The board of elementary and secondary education shall make the final determination on
1026 granting charter school status and may condition charters on the applicant's taking certain actions or
1027 maintaining certain conditions.

1028 The board of elementary and secondary education and department shall create and use a rubric
1029 for the approval of a charter application. The board of elementary and secondary education and
1030 department shall report the review of each charter application against the rubric at each stage in the
1031 process. In reviewing applications, the board of elementary and secondary education shall consider
1032 whether the school committee where the charter school is to be located has been asked to implement the
1033 educational program being proposed by the applicant and has declined to do so.

1034 No board of elementary and secondary education member shall vote on a charter application if
1035 that member serves on a charter school board or is an employee of a charter school.

1036 A Horace Mann charter school shall have a final memorandum of understanding, as described in
1037 subsection (b), prior to the final board of elementary and secondary education vote on its application.

1038 (k) The board of elementary and secondary education may authorize a single board of trustees to
1039 manage more than 1 charter school authorized under this section, provided however that each school
1040 holds its own charter. In addition to those listed in subsection (d), the board of elementary and
1041 secondary education shall accept applications from existing charter school boards of trustees.

1042 Each applicant shall submit an application for each charter school it proposes, except that
1043 applicants proposing to create more than 1 charter school in more than 1 geographically proximate
1044 district may submit 1 application for such schools.

1045 The board of elementary and secondary education shall give preference to applications from
1046 providers building networks of schools in more than 1 municipality.

1047 The board of elementary and secondary education shall not approve a new commonwealth
1048 charter school in any community with a population of less than 30,000, as determined by the most recent
1049 United States census, unless it is a regional charter school.

1050 If a final application is fundamentally flawed, the department may provide feedback to the
1051 applicant and invite it to submit a stronger application in the future. Once a final application has been
1052 filed, only minor, non-substantive amendments shall be allowed. The department shall maintain a
1053 written record of interviews it conducts with final charter applicants, and include that record with the
1054 final application materials that are provided to the board of elementary and secondary education, local
1055 school officials and the public.

1056 If a charter school has not obtained intent to register forms equal to or greater than 75% of its
1057 projected first year enrollment from parents or guardians of students living in the sending district or
1058 districts by May 1 of the school year prior to the school's opening, the opening of the charter school
1059 shall be delayed for one year. If the school has not achieved said 75% by the following May 1, the board
1060 of elementary and secondary education shall revoke the school's charter.

1061 (l) A charter school established under a charter granted by the board of elementary and
1062 secondary education shall be a body politic and corporate with all powers necessary or desirable for
1063 carrying out its charter program, including, but not limited to, the following:—

1064 (1) to adopt a name and corporate seal; provided, however, that any name selected must
1065 include the words "charter school";

(2) to sue and be sued, but only to same extent and upon the same conditions that a municipality can be sued;

(3) to acquire real property, from public or private sources, by lease, lease with an option to purchase, or by gift, for use as a school facility; however, in the case of a Horace Mann charter school, the approval of the local school committee shall be obtained before acquisition of any such real property owned or controlled by such body;

(4) to receive and disburse funds for school purposes;

(5) to make contracts and leases for the procurement of services, equipment and supplies; provided, however, that if the charter school intends to procure substantially all educational services under contract with another person, the terms of such a contract must be approved by the board of elementary and secondary education either as part of the original charter or by way of an amendment thereto; provided, further that the board shall not approve any such contract terms, the purpose or effect of which is to avoid the prohibitions of this section against (i) charter school status for private and parochial schools or (ii) for-profit entity operating a charter school.

(6) to incur temporary debt in anticipation of receipt of funds; provided that a Horace Mann school shall obtain the approval of the local school committee and appropriate local appropriating authorities and officials relative to any proposed lien or encumbrance upon public school property or relative to any financial obligation for which the local school district shall become legally obligated; and provided further that notwithstanding any law to the contrary, the terms of repayment of any charter school's debt shall not exceed the duration of the school's charter without the approval of the board of elementary and secondary education;

(7) to solicit and accept any grants or gifts for school purposes;

1089 (8) to have such other powers available to a business corporation formed under chapter
1090 156B that are not inconsistent with this chapter.

1091 (m) Charter schools shall not charge any public school for the use or replication of any part of
1092 their curriculum subject to the prescriptions of any contract between the charter schools and any third
1093 party providers.

1094 (n) Charter schools shall be open to all students, on a space available basis, and shall not
1095 discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental
1096 or physical disability, age, ancestry, athletic performance, special need, or proficiency in the English
1097 language or a foreign language, and academic achievement. Charter schools may limit enrollment to
1098 specific grade levels and may structure curriculum around particular areas of focus such as mathematics,
1099 science, or the arts. There shall be no application fee for admission to a charter school. A charter school
1100 shall not charge tuition or any fee related to the provision of required educational programs.

1101 A commonwealth charter school shall only enroll students from the district or districts identified
1102 in its charter. If a commonwealth charter school wants to enroll students from other districts or move the
1103 school to a district not identified in its charter, it must seek an amendment to its charter from the board of
1104 elementary and secondary education. Priority for enrollment in a Horace Mann charter school shall be
1105 given first to students actually enrolled in said school on the date that the application is filed with the
1106 board of elementary and secondary and to their siblings if the school is a conversion of an existing
1107 school; second to other students actually enrolled in the public schools of the district where the Horace
1108 Mann charter school is to be located; and third, to other resident students.

1109 (o) A charter school may not administer tests to potential applicants or predicate enrollment on
1110 results from any test of ability or achievement, unless the school is a performing, visual, or graphics arts
1111 school, which may hold auditions for applicants. Requirements for enrollment in a charter school,

1112 including but not limited to attendance at informational meetings and interviews, a parent's commitment
1113 to volunteer at the school or a parent's agreement to sign a contract or other form of written agreement
1114 with the school, shall not be designed, intended, or used to discriminate against a student or to deny a
1115 student enrollment in a charter school. If the total number of students who are eligible to attend and
1116 apply to a charter school and who reside in a district from which the charter school is permitted to enroll
1117 students, or are siblings of students already attending said charter school, is greater than the number of
1118 spaces available, an admissions lottery, including all eligible students applying, shall be held to fill all of
1119 the spaces in that school from among said students. The names of students who entered the lottery but
1120 did not gain admission shall be maintained on a waitlist, which shall be forwarded to the department no
1121 later than June 1 in the year in which the lottery is held. In addition to the names of students, the school
1122 shall supply to the department each student's home address, telephone number, grade level, and other
1123 information the department deems necessary. The department shall maintain a consolidated waitlist for
1124 each municipality in order to determine the number of individual students in each municipality seeking
1125 admission to a charter school.

1126 (p) Each charter school shall annually, no later than April 1, notify each public school district in
1127 writing of the number and grade levels of students who will be attending the charter school from that
1128 district the following September as well as the number of new students who will be transferring from
1129 that district to the charter school in the following September.

1130 (q) A student may withdraw from a charter school at any time and enroll in another public
1131 school where said student resides. When a student stops attending a charter school for any reason, the
1132 charter school shall fill the vacancy with the next available student on the waitlist for the grade in which
1133 the vacancy occurs and shall continue through the waitlist until a student fills the vacant seat. If there is
1134 no waitlist, a charter school shall publicize an open seat to the students of the sending district or districts
1135 and make attempts to fill said vacant seat. Charter schools shall attempt to fill vacant seats up to
1136 February 15, excluding seats that open in grade 12. Charter schools may but are not required to fill

1137 vacant seats after February 15. If a vacancy occurs after February 15, such vacancy shall remain with
1138 the grade cohort and shall be filled in the following September if it has not previously been filled. A
1139 vacancy occurring after February 15 shall not be filled by adding a student to a lower grade level. Within
1140 30 days of a vacancy being filled, the charter school shall send the name of the student filling such
1141 vacancy to the department for the purpose of the department updating its waitlist.

1142 A student may be expelled from a charter school based on criteria determined by the board of
1143 trustees, and approved by the board of elementary and secondary education, with the advice of the
1144 principal and teachers; provided, however, that charter school policies shall be consistent with sections
1145 37H and 37H½.

1146 (r) A charter school may be located in part of an existing public school building, in space
1147 provided on a private work site, in a public building, or any other suitable location. A charter school may
1148 own, lease or rent its space. Notwithstanding any other provision of this section, no school building
1149 assistance funds, so-called, shall be awarded to a commonwealth charter school for the purpose of
1150 constructing, reconstructing or improving said school.

1151 At any time after an applicant has filed a charter school application, it may request a facilities
1152 assessment from the Massachusetts School Building Authority. A charter school may request such an
1153 assessment at any time. The authority, at the request of a charter school or applicant for a charter school,
1154 may conduct an assessment of a facility or facilities intended for use or used as a school building. The
1155 facilities assessment shall be conducted by the authority in a format and manner prescribed by the
1156 authority and the charter school shall pay for the cost of conducting such facilities assessment. The
1157 charter school shall provide complete access to its school facilities for the purpose of the authority
1158 conducting a facilities assessment. The facilities assessment shall include an assessment of the charter
1159 school's maintenance process and a review of the maintenance practices and procedures in place at the
1160 school. Such maintenance review shall be conducted in a format and manner prescribed by the authority.

1161 The authority shall bear no responsibility for a decision not to undertake a facilities assessment or the
1162 results of any facilities assessment undertaken. In the event that the authority decides to conduct a
1163 facilities assessment, the conducting of said assessment shall in no way be construed, interpreted or
1164 deemed to imply any responsibility on the part of the authority for the results of said assessment, nor
1165 shall the authority assume any duty or responsibility with respect to the maintenance, renovation, repair,
1166 or construction of any school facility that may be assessed.

1167 Upon receiving an application for a charter school, the department shall notify the authority that
1168 an application has been filed, and shall identify the district or districts from which the school intends to
1169 enroll students. At such time, the charter school applicant may contact the authority to ask if the
1170 authority is aware of surplus facilities or excess school building capacity in the relevant district or
1171 districts. The authority, if contacted by such applicant, shall share any information it has regarding the
1172 availability of surplus facilities or excess capacity in that school district or districts.

1173 (s) The school committee of each district where a Horace Mann charter school is located shall
1174 develop a plan to disseminate innovative practices of said charter school to other public schools within
1175 the district subject to the provisions of any contract between the Horace Mann charter school and any
1176 third party provider.

1177 The commissioner of elementary and secondary education shall facilitate the dissemination of
1178 successful innovative programs of charter schools and provide technical assistance for school districts to
1179 replicate such programs. Each charter school shall be required to collaborate with its sending district or
1180 districts on the sharing of innovative practices.

1181 (t) The department of elementary and secondary education may, on an annual basis, send
1182 evaluation teams to visit each charter school to corroborate and augment the information provided in the
1183 annual report in accordance with guidelines issued by the department. Site visit teams may also gather
1184 any other evidence relevant to the school's performance, student academic achievement, and adherence

1185 to recruitment and retention plans. The written reports from these site visits shall become part of the
1186 charter school's record. A charter school may add to the record any written response to said report.

1187 (u) A charter school shall operate in accordance with its charter and the provisions of law
1188 regulating other public schools; provided, however, that the provisions of sections 41 and 42 shall not
1189 apply to employees of commonwealth charter schools. Charter schools shall comply with the provisions
1190 of chapters 71A and 71B; provided, however, that the fiscal responsibility of any special needs student
1191 currently enrolled in or determined to require a private day or residential school shall remain with the
1192 school district where the student resides. If a charter school expects that a special needs student currently
1193 enrolled in the charter school may be in need of the services of a private day or residential school, it shall
1194 convene an individual education plan team meeting for said student. Notice of the team meeting shall be
1195 provided to the special education department of the school district in which the child resides at least five
1196 days in advance. Personnel from the school district in which the child resides shall be allowed to
1197 participate in the team meeting concerning future placement of the child.

1198 (v) A Horace Mann charter school shall be exempt from local collective bargaining agreements
1199 to the extent provided by the terms of its charter; provided, however, that employees of the Horace Mann
1200 charter school shall continue to be members of the local collective bargaining unit and shall accrue
1201 seniority and shall receive, at a minimum, the salary and benefits established in the contract of the local
1202 collective bargaining unit where said Horace Mann charter school is located. Employees of Horace
1203 Mann charter schools shall be exempt from all union and school committee work rules to the extent
1204 provided by said school's charter. Employees in Horace Mann charter schools shall be required to work
1205 the full work day and work year to the extent provided by the terms of the school's charter.

1206 (w) Notwithstanding the provisions of this section or any other general or special law to the
1207 contrary, for the purposes of chapter 268A: (i) a charter school shall be deemed to be a state agency; and
1208 (ii) the appointing official of a member of the board of trustees of a charter school shall be deemed to be

1209 the commissioner of education. Members of boards of trustees of charter schools operating under the
1210 provisions of this section shall file a disclosure annually with the state ethics commission, the
1211 department of secondary and elementary education, and the city or town clerk wherein such charter
1212 school is located. Said disclosure is in addition to the requirements of chapter 268A, and a member of a
1213 board of trustees must also comply with the disclosure and other requirements of said chapter 268A. The
1214 form of the disclosure shall be prescribed by the ethics commission and shall be signed under penalty of
1215 perjury. Such form shall be limited to a statement in which members of the board of trustees shall
1216 disclose any financial interest that they or a member of their immediate families, as defined in section 1
1217 of said chapter 268A, have in any charter school located in the commonwealth or in any other state or
1218 with any person doing business with any charter school.

1219 Each member of a board of trustees of a charter school shall file such disclosure for the
1220 preceding calendar year with the commission within 30 days after becoming a member of such board of
1221 trustees, on or before September 1 of each year thereafter that such person is a member of such board
1222 and on or before September 1 of the year after such person ceases to be a member of such board;
1223 provided, however, that no member of a board of trustees shall be required to file such disclosure for the
1224 year in which he ceases to be a member of such board if he served less than 30 days in such year.

1225 (x) Students in charter schools shall be required to meet the same performance standards, testing
1226 and portfolio requirements set by the board of elementary and secondary education for students in other
1227 public schools.

1228 (y) The board of trustees, in consultation with the teachers, shall determine the school's
1229 curriculum and develop the school's annual budget. The board of trustees of each Horace Mann charter
1230 school shall annually submit to the superintendent and school committee of the district in which such
1231 school is located a budget request for the following fiscal year. The school committee shall act on such
1232 budget request in conjunction with its actions on the district's overall budget. Each Horace Mann charter

1233 school shall receive in response to the budget request not less than it would have under the district's
1234 budgetary allocation rules. The board of trustees may appeal any disproportionate budgetary allocation to
1235 the commissioner, who shall determine an equitable funding level for such school and shall require the
1236 school committee to provide such funding.

1237 Following the appropriation of the district's operating budget for the fiscal year, the amount
1238 approved by the local appropriating authority for the operation of each Horace Mann charter school shall
1239 be available for expenditure by the board of trustees of such school for any lawful purpose without
1240 further approval by the superintendent or the school committee. In no case shall a Horace Mann charter
1241 school expend or incur obligations in excess of its budget request; provided, however, that a Horace
1242 Mann charter school shall be authorized to spend federal and state grants and other funds received
1243 independent of the school district not accounted for in said charter school's budget request without prior
1244 approval from the superintendent or the school committee.

1245 (z) Upon approval of a Horace Mann charter school by the board of elementary and secondary
1246 education, the superintendent of the school district where the Horace Mann charter school is to be
1247 located shall reassign, to the extent provided by the terms of its charter, any faculty member who wishes
1248 to be reassigned to another school located within said district.

1249 (aa) Employees of charter schools shall be considered public employees for purposes of tort
1250 liability under chapter 258 and for collective bargaining purposes under chapter 150E. The board of
1251 trustees shall be considered the public employer for purposes of tort liability under said chapter 258 and
1252 for collective bargaining purposes under said chapter 150E; provided, however, that in the case of a
1253 Horace Mann charter school, the school committee of the school district in which the Horace Mann
1254 charter school is located shall remain the employer for collective bargaining purposes under said chapter
1255 150E. Teachers employed by a charter school shall be subject to the state teacher retirement system
1256 under chapter 32 and service in a charter school shall be "creditable service" within the meaning thereof.

1257 A charter school shall recognize an employee organization designated by the authorization cards of 60
1258 per cent of its employees in the appropriate bargaining unit as the exclusive representative of all the
1259 employees in such unit for the purpose of collective bargaining.

1260 (bb) Each local school district shall be required to grant a leave of absence to any teacher in the
1261 public schools system requesting such leave in order to teach in a commonwealth charter school. A
1262 teacher may request a leave of absence for up to two years.

1263 At the end of the second year the teacher may either return to his former teaching position or, if he
1264 chooses to continue teaching at said commonwealth charter school, resign from his school district
1265 position.

1266 (cc) Notwithstanding section 59C, the internal form of governance of a charter school shall be
1267 determined by the school's charter.

1268 (dd) A charter school shall comply with all applicable state and federal health and safety laws
1269 and regulations.

1270 (ee) The children who reside in the school district in which the charter school is located shall be
1271 provided transportation to the charter school by the resident district's school committee on similar terms
1272 and conditions as transportation is provided to children attending local district schools, if such
1273 transportation is requested by the charter school. In providing such transportation, said school committee
1274 shall accommodate the particular school day and school year of the charter school; provided, however,
1275 that in the event that a school committee limits transportation for district school students, the school
1276 district shall not be required to provide transportation to any commonwealth charter school beyond said
1277 limitations. A charter school and the sending district shall meet to plan bus routes and charter school
1278 starting and ending times in order to assist the district with the provision of cost effective means of
1279 transportation. Schools operating pursuant to a charter granted after January 1, 1997, and all charter

1280 schools during fiscal year 1999 and thereafter, shall not receive funds for transportation above the
1281 amount actually required by such charter school for the provision of transportation services to eligible
1282 students. If the sending district provides an alternative method of transportation for students enrolled in
1283 the sending district's public schools, it shall not be assessed for transportation costs which exceed the per
1284 pupil cost of said alternative. Costs for transportation shall be included only if transportation is provided
1285 for students in the same program and grade level as those in the charter school. Students who do not
1286 reside in the district in which the charter school is located shall be eligible for transportation in
1287 accordance with section 12B of chapter 76. A regional charter school as designated by the board of
1288 elementary and secondary education, and whose charter provides for transportation of all students from
1289 charter municipalities shall also be reimbursed by the commonwealth under section 16C of chapter 71
1290 for transportation provided to pupils residing outside the municipality where the charter school is
1291 located, but no reimbursement for transportation between the charter school and home shall be made on
1292 account of any pupil who resides less than one and one-half miles from the charter school, measured by a
1293 commonly traveled route. If a charter school provides its own transportation, the school shall coordinate
1294 and collaborate with the sending district or districts to provide cost effective means of transportation.
1295 All such transportation shall be determined in advance of the approval of the district's final budget for a
1296 fiscal year.

1297 (ff) If a charter school plans to make a major change in its operations, the school's board of trustees
1298 shall submit in writing to the board of elementary and secondary education a request to amend its charter.
1299 Major changes are defined as those that fundamentally affect a school's mission, organizational structure, or
1300 educational program, as further defined by regulation.

1301 If a charter school plans to make a minor change in its operations, the school's board of trustees shall
1302 submit in writing to the commissioner of elementary and secondary education a request to amend its charter.
1303 Minor changes are defined as changes that do not fundamentally alter a school's organizational structure or
1304 educational program, as further defined by regulation.

1305 The board of elementary and secondary education or the commissioner, as applicable, shall
1306 approve or deny amendment requests within 90 days after receiving complete requests. A request for a
1307 change to a Horace Mann charter school's charter also requires the approval of the local school committee.

1308 If a commonwealth charter school seeks an amendment to change its maximum enrollment,
1309 including grades served, the municipality of its location, or the districts specified in its charter, the
1310 department will provide a copy of the request to the superintendents of the affected districts and provide
1311 them notice of their right to submit written comment to the commissioner within 30 days.

1312 Should the commissioner deny an amendment request, the charter school's board of trustees may
1313 seek review of the commissioner's decision by the board.

1314 (gg) The initial charter granted by the board of elementary and secondary education shall be for
1315 five years. The board may renew a charter for up to five years. At the time of the second renewal or
1316 subsequent renewals, a charter school may apply for and receive an extension of the charter for up to ten
1317 years.

1318 The board of elementary and secondary education shall develop procedures and guidelines for
1319 revocation and renewal of a school's charter; provided, however, that a charter for a Horace Mann
1320 charter school shall not be renewed by the board without a vote of support from the school committee in
1321 the district where said charter school is located; provided that a commonwealth charter shall not be
1322 renewed unless the board of trustees of the charter school has documented in a manner approved by the
1323 board of elementary and secondary education that said commonwealth charter school has provided
1324 models for replication and best practices to the commissioner and to other public schools in the district
1325 where the charter school is located.

1326 When deciding on charter renewal, the board of elementary and secondary education shall
1327 consider the extent to which the school has followed its recruitment and retention plan by using

1328 deliberate, specific strategies towards recruiting and retaining the categories of students enumerated in
1329 subsection (f) and the extent to which the school has enhanced its plan as necessary. The board of
1330 elementary and secondary education may impose conditions or financial sanctions on the charter school
1331 upon renewal if sufficient progress towards recruitment and retention benchmarks has not been made.
1332 When deciding on charter renewal, the board of elementary and secondary education shall take into
1333 account the annual attrition of students, teachers, and administrators. The board shall also consider
1334 innovations that have been successfully implemented by the charter school and the evidence that
1335 supports the effectiveness of these practices. The board shall also consider progress made in student
1336 academic achievement. Upon renewal of its charter, a school shall update and enhance its recruitment
1337 and retention plan as necessary to account for changes in enrollment.

1338 The board of elementary and secondary education may revoke a school's charter if the school
1339 has not fulfilled any conditions imposed by the board in connection with the grant of the charter or the
1340 school has violated any provision of its charter.

1341 The board of elementary and secondary education may place a charter school on a probationary
1342 status to allow the implementation of a remedial plan after which, if said plan is unsuccessful, the charter
1343 may be summarily revoked.

1344 In the event that the board of elementary and secondary education revokes a charter, or if a
1345 charter school ceases to exist for any reason, the charter school shall, within six months of the revocation
1346 of said charter or closure of the school, submit to the board a detailed financial accounting of all the
1347 school's assets, including all real property, vehicles, equipment and supplies. Upon the revocation, non-
1348 renewal, or voluntary return of a commonwealth charter, title to all of the property of the charter school
1349 shall immediately vest in the Commonwealth, subject to the rights of any secured party holding a
1350 perfected security interest in the property of such charter school. Any funds remaining after the

1351 satisfaction of the charter school's obligations shall be returned to sending districts in proportion to each
1352 district's average enrollment during the previous five years.

1353 (hh) Commonwealth charter schools shall be funded pursuant to this subsection. The
1354 commonwealth shall pay a tuition amount to the charter school, which shall be the sum of the tuition
1355 amounts calculated separately for each district sending students to the charter school. Tuition amounts
1356 for each sending district shall be calculated by the department using the formula set forth herein, to
1357 reflect, as much as practicable, the actual per pupil spending amount that would be expended in the
1358 district if the students attended the district schools. The tuition amount shall be calculated separately for
1359 each district sending students to a charter school, and for each charter school to which a district sends
1360 students. Each district's per pupil tuition amount for each charter school to which it sends students shall
1361 include a per pupil foundation budget component, adjusted to reflect the actual net school spending in
1362 the sending district.

1363 In calculating the per pupil foundation budget component, the department shall calculate a
1364 foundation budget for the students from each sending district attending the charter school in the previous
1365 fiscal year, pursuant to the provisions of section 2 of chapter 70; provided, that the department shall not
1366 include in said calculation the assumed tuitioned-out special education enrollment, nor any amounts
1367 generated by said assumed enrollment, as defined by said section 2. The per pupil foundation budget
1368 component for the charter school shall be the district's foundation budget, as so calculated, divided by
1369 the number of students attending the charter school from the sending district in the previous fiscal year.
1370 The per pupil foundation budget component shall be calculated separately for each charter school to
1371 which a district sends students. The foundation budget for a charter school shall be the sum of the
1372 foundation budgets for the charter school for each district sending students to the charter school.

1373 In adjusting the per pupil foundation budget component, the department shall calculate for each
1374 sending district an above foundation spending percentage, which shall be the percentage by which the

1375 district's actual net school spending exceeds the foundation budget for the district, as calculated pursuant
1376 to the provisions of chapter 70. The department shall further calculate the percentage of actual net school
1377 spending reported by the sending district associated with tuition costs for tuitioned-out special education
1378 students, including education that occurs in educational collaboratives, and with spending on health care
1379 costs for retired employees, for any district for which such costs are included in net school spending, and
1380 shall reduce the district's above foundation spending percentage proportionately. The per pupil
1381 foundation budget component for each charter school to which the sending district sends students shall
1382 be increased by said adjusted above foundation spending percentage. In a fiscal year in which a school
1383 district's chapter 70 aid is reduced, and said reduction lowers the above foundation percentage, the
1384 department shall adjust the per pupil foundation budget component and total tuition amount as calculated
1385 by this section proportionately, and shall notify the affected sending district and charter school of any
1386 reductions.

1387 The total tuition amount owed by a sending district to a charter school shall be the per pupil
1388 tuition amount as defined above, multiplied by the total number of students attending the charter school
1389 from that district in the current fiscal year. The sending district's total charter school tuition amount for
1390 purposes of the following paragraphs shall be the sum of the district's tuition amounts for each charter
1391 school to which the district sends students, calculated using the provisions of this section. The receiving
1392 charter school's total charter school tuition amount shall be the sum of the tuition amounts calculated for
1393 the charter school for each district sending students to the charter school.

1394 The sending district's total charter school tuition amount for purposes of the following
1395 paragraphs shall be the sum of the district's tuition amounts for each charter school to which the district
1396 sends students, calculated using the provisions of this section. The receiving charter school's total
1397 charter school tuition amount shall be the sum of the tuition amounts calculated for the charter school for
1398 each district sending students to the charter school.

1399 The state treasurer is hereby authorized and directed to deduct a sending district's total charter
1400 school tuition amount, as calculated herein, from the total state school aid, as defined in section 2 of said
1401 chapter 70, of the district in which the student resides prior to the distribution of said aid. In the case of a
1402 child residing in a municipality which belongs to a regional school district, the sending district's total
1403 charter school tuition amount shall be deducted from said chapter 70 education aid of the school district
1404 appropriate to the grade level of the child. If, in a single district, the total of all such deductions exceeds
1405 the total of said education aid, this excess amount shall be deducted from other aid appropriated to the
1406 city or town. If, in a single district, the total of all such deductions exceeds the total state aid
1407 appropriated, the commonwealth shall appropriate this excess amount; provided, however, that if said
1408 district has exempted itself from the provisions of chapter 70 by accepting section 14 of said chapter 70,
1409 the commonwealth shall assess said district for said excess amount.

1410 The state treasurer is hereby further authorized and directed to disburse to the charter school an
1411 amount equal to the charter school's total charter school tuition amount as defined above.

1412 In the case of more than one charter school managed by a single network or board of trustees, in
1413 no instance shall funding be transferred among individual schools within the network, unless such
1414 schools are located in the same school district.

1415 The department shall, subject to appropriation, provide funding to charter schools for a portion
1416 of the per pupil capital needs component included in the charter tuition amount for the purpose of
1417 construction, renovation, purchase, acquisition or improvement of school buildings and land. In fiscal
1418 year 2011 and thereafter, such funding shall not be less than the per pupil amount provided in fiscal year
1419 2010.

1420 (ii) Beginning in fiscal year 1999, any district whose total charter school tuition amount is
1421 greater than its total charter school tuition amount for the previous year shall be reimbursed by the

1422 commonwealth in accordance with this paragraph and subject to appropriation; provided, however, that
1423 no funds for said reimbursements shall be deducted from funds distributed pursuant to chapter 70. The
1424 reimbursement amount shall be equal to 100 per cent of the increase in the year in which the increase
1425 occurs; 60 per cent of that amount in the first year following; and 40 per cent of that amount in the
1426 second year following.

1427 (jj) If the unencumbered amount of cumulative surplus revenue from tuition held by a charter
1428 school at the end of a fiscal year, less (i) the amount of the fourth quarter tuition payment, (ii) the amount
1429 held in reserve for the purchase or renovation of a school building, and (iii) any reserve funds held as
1430 security for bank loans, exceeds twenty per cent of its operating budget and its budgeted capital costs for
1431 the succeeding fiscal year, the amount in excess of the said twenty per cent shall be returned by the
1432 charter school to the sending district or districts and the state in proportion to their share of tuition paid
1433 during the fiscal year. At the end of each fiscal year, the commissioner shall certify the amounts
1434 described above and the amount, if any, by which it exceeds twenty per cent of the school's operating
1435 budget and its budgeted capital costs for the succeeding fiscal year, and shall report such amount to the
1436 school committee of the sending district or districts and the applicable board of selectmen or city council
1437 by December first of each year. A charter school shall make any payment required by this subsection no
1438 later than December thirty-first of each year.

1439 (kk) No teacher shall be hired by a commonwealth charter school who is not certified pursuant to
1440 section 38G unless the teacher has successfully passed the state teacher test as required in said section
1441 38G.

1442 (ll) Each charter school shall submit an annual report to the board of elementary and secondary
1443 education, to the local school committee of each district from which the charter school enrolls students,
1444 to each parent or guardian of its enrolled students, and to each parent or guardian contemplating
1445 enrollment in that charter school. The annual report shall be issued no later than August 1 of each year

1446 for the preceding school year. The annual report shall be in such form as may be prescribed by the board
1447 of elementary and secondary education and shall include at least the following components: (1)
1448 discussion of progress made toward the achievement of the goals set forth in the charter; (2) discussion
1449 of progress made toward the benchmarks and retention efforts described in the school's recruitment and
1450 retention plan; if a charter school has not enrolled and retained a student population matching such
1451 benchmarks, the report must explain why this is the case; (3) an accounting of how many students were
1452 designated as requiring special education services or English language services by language proficiency
1453 level as measured by the Massachusetts English Proficiency Assessment examination upon enrollment
1454 and how many of these students were subsequently no longer designated as such, along with a
1455 description of methods used by the school to achieve these outcomes and the rationale behind the
1456 methodologies used; (4) the number of students, teachers, and administrators who have left each charter
1457 school and their reasons for leaving; (5) the number of students enrolled in the charter school eligible for
1458 free lunch as defined in chapter 70 section 2; (6) the number of students enrolled in the charter school
1459 eligible for reduced price lunch as defined in chapter 70 section 2; (7) the number of homeless students
1460 enrolled in the charter school; and (8) the number of students in the care of the Department of Youth
1461 Services enrolled in each charter school.

1462 The department shall adopt regulations creating a reporting requirement for a charter school's
1463 net asset balance at the end of the fiscal year. The report shall include, but not be limited to, the
1464 following types of information: the revenue and expenditures for the year just ended with a specific
1465 accounting of the uses of public and private dollars; how the capital needs component of the charter
1466 school's tuition was spent; compensation and benefits for teachers, staff, administrators, executives, and
1467 board of trustees; the amount of any and all funds transferred to a management company; the sources of
1468 any surplus funds, specifically whether they are private or public; how any surplus funds were used in
1469 the previous fiscal year; and the planned use of any surplus funds in the upcoming fiscal year on in
1470 future fiscal years. The regulations shall authorize the commissioner to recommend withholding the

1471 release of all or some part of the quarterly tuition payments for any school that has not timely filed the
1472 required report. Such report shall be filed annually on or before January 1 with the department and the
1473 state auditor and shall be in a form prescribed by said auditor. Said auditor may investigate the budget
1474 and finances of charter schools and their financial dealings, transactions and relationships, and shall have
1475 the power to examine the records of charter schools and to prescribe methods of accounting and the
1476 rendering of periodic reports.

1477 (mm) The commissioner shall collect data on the racial, ethnic, and socio-economic make-up of
1478 the student enrollment of each charter school. The commissioner shall also collect data on the number of
1479 students enrolled in each charter school who have individual education plans pursuant to chapter 71B
1480 and those requiring English language learners programs under chapter 71A. The commissioner shall file
1481 said data annually with the clerks of the house and senate and with the joint committee on education not
1482 later than December 1. The commissioner shall also make these reports available on the department's
1483 website.

1484 (nn) Individuals or groups may complain to a charter school's board of trustees concerning any
1485 claimed violations of the provisions of this section by the school. If, after presenting their complaint to
1486 the trustees, the individuals or groups believe their complaint has not been adequately addressed, they
1487 may submit their complaint to the board of elementary and secondary education which shall investigate
1488 such complaint and make a formal response.

1489 (oo) The board of elementary and secondary education shall adopt regulations for implementing
1490 the provisions of this section, including, but not limited to, regulations for determining the actual per
1491 pupil net school spending amounts in districts, and for calculating charter school tuition amounts; and
1492 regulations governing the financial conditions and obligations of management contracts. In adopting
1493 said regulations, the department shall consult with the executive office for administration and finance.

1494 **SECTION 5.** For the school districts in which net school spending on charter school tuition
1495 shall not exceed 18% as set forth in section 89(i) of chapter 71, the following shall apply: in fiscal year
1496 2011, a public school district's total charter school tuition payment to commonwealth charter schools
1497 shall be limited to 12 percent of said district's net school spending. In fiscal year 2012, a public school
1498 district's total charter school tuition payment to commonwealth charter schools shall be limited to 13
1499 percent of said district's net school spending. In fiscal year 2013, a public school district's total charter
1500 school tuition payment to commonwealth charter schools shall be limited to 14 percent of said district's
1501 net school spending. In fiscal year 2014, a public school district's total charter school tuition payment to
1502 commonwealth charter schools shall be limited to 15 percent of said district's net school spending. In
1503 fiscal year 2015, a public school district's total charter school tuition payment to commonwealth charter
1504 schools shall be limited to 16 percent of said district's net school spending. In fiscal year 2016, a public
1505 school district's total charter tuition payment to commonwealth charter schools shall be limited to 17
1506 percent of said district's net school spending. In fiscal year 2017, a public school district's total charter
1507 tuition payment to commonwealth charter schools shall be limited to 18 percent of said district's net
1508 school spending.

1509 **SECTION 6.** The department shall draft a model policy for school districts regarding the grade
1510 placement and eligibility for high school graduation of students leaving a commonwealth charter school
1511 and seeking to enroll in a district school. In drafting said model policy, the department shall confer with
1512 school districts and commonwealth charter schools. Said model policy shall be made available no later
1513 than December 31, 2010. Until a school district adopts a policy regarding the grade placement or
1514 eligibility for high school graduation of students leaving a commonwealth charter school, when
1515 determining the appropriate grade placement or eligibility for high school graduation of a student leaving
1516 a commonwealth charter school and enrolling in a district school, a district shall examine the course of
1517 study and level of academic attainment of the student.

1518 **SECTION 7.** Section 4E of Chapter 40 of the General Laws, as appearing in the 2008 Official
1519 Edition, is hereby amended by inserting after the word “districts” in line 2 the following: “and boards of
1520 trustees of charter schools”. Said section is further amended in line 5 by inserting “and charter schools”
1521 after the word “committees”. Said section is further amended in line 6 by inserting “and boards of
1522 trustees of charter schools” after “committees”. Said section is further amended in line 7 by inserting
1523 “and charter schools” after “school committees”. Said section is further amended in line 12 by inserting
1524 “and board of trustees” after “member school committee”. Said section is further amended in line 13 by
1525 inserting “or board of trustee” before “or his designee”. Said section is further amended in line 28 by
1526 inserting “and charter schools” after “member committees”. Said section is further amended in line 34 by
1527 inserting “and charter schools” after “member municipalities.” Said section is further amended in line 64
1528 by inserting

1529 “and charter schools” after “municipalities”. Said section is further amended in line 97 by inserting “or
1530 board of trustees of any charter school” after “regional school district”. Said section is further amended
1531 in line 100 by inserting “or charter school” after “regional school district.” Said section is further
1532 amended in line 102 by inserting “or board of trustees” after “school committee”.

1533 Section 22A of Chapter 7 of the General Laws, as appearing in the 2008 Official Edition, is
1534 hereby amended in the following lines: line 4 by striking “or” appearing immediately before
1535 “authorities”, and inserting “or commonwealth or Horace Mann charter schools” after “authorities,”; and
1536 line 5 by striking the “or” appearing immediately before “authorities”, and inserting “or commonwealth
1537 or Horace Mann charter schools” after “authorities,”.

1538 **SECTION 8:** Chapter 70B, Section 15 shall be amended by adding the following paragraph at
1539 the end of subsection (b):

1540 Prior to the sale or lease of an assisted structure or facility, or a portion of that structure or
1541 facility, the school district in control of said structure or facility shall submit to the authority a district-

1542 wide school facility use plan that shall include, but not be limited to, a listing of all school facilities
1543 under the control of the school district, a detailed description of both the current use and proposed use of
1544 each school facility, the most recent enrollment data, by school facility, then available to the school
1545 district, a detailed floor plan of each school facility that shows and labels each space in the facility and
1546 whether it is used as a classroom or has some other use, and any other information that may be required
1547 by the authority to understand the district's school facility use plan. If such plan includes the closure,
1548 sale or lease of a school facility, or any part of a school facility, the authority may conduct, with the full
1549 cooperation of the district, an analysis of district-wide enrollment capacity and future enrollment trends
1550 for the district. If the capacity analysis and enrollment projection indicate an extended period of
1551 significant excess capacity within the district's educational facilities, the district shall, prior to
1552 consideration of any other disposition of the identified excess capacity, make a good faith offer to sell or
1553 lease at fair market value the identified excess capacity to a commonwealth charter school established
1554 pursuant to section 89 of chapter 71 of the Massachusetts General Laws or an applicant for a
1555 commonwealth charter school pursuant to said section 89 that serves or is seeking to serve students who
1556 live in the school district. The authority shall not recapture commonwealth and authority assistance for
1557 any such excess capacity that is sold or leased to a commonwealth charter school or applicant for a
1558 commonwealth charter school.